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8. 59 - 86

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9. 87 - 96

ZONING ATLAS AMENDMENT (CONDITIONAL ZONING DISTRICT) – V[ Áæ^ á Á  
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10. COMMITTEE/ADVISORY BOARD REPORTS Á

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11. Á ADJOURNMENTÁ

IF AN EMERGENCY OCCURS, OR IF YOU ARE RUNNING LATE FOR THE MEETING, PLEASE LEAVE A VOICE MAIL FOR MICHAEL HARVEY (919-245-2592).

> i m&\$% )

~ July 2015 ~						
← June						August →
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 ORC Meeting - 6:00 pm Planning Board - 7:00 pm WCOB 004	2	3 HOLIDAY	4
5	6	7	8	9	10	11
12	13 Board of Adjustment 7:30 pm WCOB 004	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	Notes:

# August 2015

◀ Jul 2015		~ August 2015 ~					Sep 2015 ▶
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
						1	
2	3	4	5 Planning Board 7:00 pm WCOB 004	6	7	8	
9	10 BOA 7:30 pm WCOB 004	11	12	13	14	15	
16	17	18	19 OUTBoard 7:00 pm WCOB 004	20	21	22	
23	24	25	26	27	28	29	
30	31	Notes:					

**MINUTES  
ORANGE COUNTY PLANNING DEPARTMENT  
APRIL 1, 2015  
REGULAR MEETING**

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

**MEMBERS ABSENT:** Maxecine Mitchell, At-Large Bingham Township; Herman Staats, At-Large, Cedar Grove Township; James Lea, Cedar Grove Township Representative; Andrea Rohrbacher, At-Large Chapel Hill Township;

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

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

**AGENDA ITEM 2: INFORMATIONAL ITEMS**

- a) Planning Calendar for April and May – to be discussed. Is this helpful? There is a staffing change happening in the department and unless the Planning Board wants to see these calendars each month, this information may stop being produced. The genesis of the calendar was so special because Planning Board meeting dates could be chosen back when the Comprehensive Plan and the Buckhorn Village projects were being worked on because many special meetings were necessary.

Perdita Holtz: As you may be aware, Tina has moved to another department. We are evaluating all the things Tina did and if they should continue. The planning calendar was something Tina put together in the package. We wanted to check with you to see if you find it helpful, want to see it continue, etc. Pete has already told me that it's something he uses.

Paul Guthrie: I usually set up my calendar and have this handy.

Tony Blake: I take this and put it on my Outlook calendar.

Perdita Holtz: We will continue the planning calendar.

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

Lydia Wegman: On page 3, line 136 should read, "Can you help me understand why the county would want to change to the state provisions?" On page 4, line 170 and 172, DEAPR is misspelled.

Paul Guthrie: I don't have a change, but I did want to make a comment on line 198 through 201. When I referred to, I wasn't as clear as I should have been, that the constitutionality limit on sex offenders I mentioned had to do with the issue with the power of the state not that there were sex offenders under sentence and that could have constitutional implications for some of the things we were talking about in the placement of sexually related business because it has to do with basic rights of individuals that exercise certain freedom of rights.

**MOTION** by Bryant Warren to approve the Planning Board minutes with corrections. Seconded by Laura Nicholson.

55 VOTE: UNANIMOUS

56  
57

58 AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

59  
60

61 AGENDA ITEM 5: PUBLIC CHARGE

62  
63

**Introduction to the Public Charge**

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

72  
73

**PUBLIC CHARGE**

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

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82 AGENDA ITEM 6: CHAIR COMMENTS

83  
84

84 Pete Hallenbeck: The process we go through is to remind everyone, when we vote, if someone votes against  
85 something, there is an opportunity to provide a minority report where you can say, here is why I didn't like it or vote  
86 for it.

87  
88

89 AGENDA ITEM 7: 2030 COMPREHENSIVE PLAN AND UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT  
90 AMENDMENTS: To review changes that have been made to the proposed UDO text  
91 amendment to establish a zoning program commonly referred to as Agricultural Support  
92 Enterprises (ASE) within the Rural Buffer land use classification and to make a  
93 recommendation to the BOCC on the revised text amendment. This item was heard at the  
94 February 24, 2014 Quarterly Public hearing and the proposal was recommended for approval  
95 by the Planning Board at the May 7, 2014 Planning Board Meeting.

96  
97

**Presenter:** Perdita Holtz, Planning Systems Coordinator

98  
99

Perdita Holtz: Reviewed the item and background.

100  
101

Lydia Wegman: What is an agricultural processing facility community?

102  
103

Perdita Holtz: I don't have all the definitions so I can't read it directly. It is the one that has five or fewer farm  
104 partners that are doing an agricultural processing facility on one of their farms.

105  
106

Pete Hallenbeck: Does that imply that the people involved must be farmers from that area?

107  
108

Perdita Holtz: Yes. Orange County or the surrounding counties.

109  
110 Paul Guthrie: How is processing defined? What if five farmers are growing wheat and they put a threshing machine  
111 for all them on one farm for an extended period of time. Would that be a processing system?  
112  
113 Perdita Holtz: If the machine was outside and not in a building for a limited amount of time. Technically it may be  
114 considered, but may fall under bona fide farm regulations.  
115  
116 Tony Blake: It is not beef processing?  
117  
118 Perdita Holtz: That would be under meat processing.  
119  
120 Lydia Wegman: But that is permitted?  
121  
122 Perdita Holtz: Community meat processing would be permitted, but that is not agricultural processing under the  
123 definition. There is non-meat and meat.  
124  
125 Lydia Wegman: It says, permitted by right.  
126  
127 Perdita Holtz: On the table of permitted uses, a community meat processing facility would be permitted by right.  
128  
129 Lydia Wegman: If it is permitted by right, that means only the staff gets to address those issues, correct? So the  
130 public has no input at all regarding size, noise, and smell?  
131  
132 Perdita Holtz: Yes. But there are standards about the size and what is permitted. In the use specific standards for a  
133 community meat processing facility, the building cannot be more than 10,000 square feet, located at least 100 feet  
134 from the property lines, and outdoor storage only in the rear yard, screened from view. As far as the odors, under the  
135 performance standards in Section 6.4.....  
136  
137 Michael Harvey: In Section 6.4 there is air pollution, but not odor per say. There are statutory limitations and  
138 protections granted to farmers with respect to odors, limiting them from being classified as a nuisance and limiting  
139 adjoining property owners to sue under a nuisance provision under the general statute.  
140  
141 Lydia Wegman: Are there any restrictions on ag odors?  
142  
143 Michael Harvey: There are certain restrictions. Certain farm operations are provided, as defined by state statutes,  
144 an exemption from being sued as a nuisance case.  
145  
146 Lydia Wegman: About the 100 foot setback, one of the slides talked about reducing the setback if there is an existing  
147 farm building so that 100 foot could potentially be reduced so there is no guarantee of 100 feet between the  
148 processing facility and the adjoining property.  
149  
150 Tony Blake: Would the definition of processing be extended to slaughter?  
151  
152 Perdita Holtz: If it's a meat processing facility, yes. If it's agriculture processing not including animals it is just an  
153 agricultural processing facility.  
154  
155 Lydia Wegman: When does the Agricultural Preservation Board get involved?  
156  
157 Perdita Holtz: Their involvement is outlined on pages 22, 23, and 24.  
158  
159 Lydia Wegman: The reference in Section 2.5.4(C)(1)(b) is just definitional, it is not limited?  
160  
161 Perdita Holtz: Correct.  
162

163 Lydia Wegman: There is no provision for neighborhood information meetings, is that correct?

164  
165 Perdita Holtz: There is if you are doing a special use permit application or rezoning application which is a  
166 requirement. It is in Section 2.7.

167  
168 Lydia Wegman: On page 25, Base Zoning Districts, on the ASE-CZ, is there a definition of compatibility, and then it  
169 says thus ensuring and I think that should be en and not in, is there a definition of compatibility, continued  
170 conservation, building values or appropriate use of land.

171  
172 Perdita Holtz: There is not but the applicability section was taken from existing language in others. It is a legislative  
173 decision as to what is compatible.

174  
175 Lydia Wegman: Is there any history to what the BOCC would consider?

176  
177 Perdita Holtz: Not that I can speak to off the top of my head. It is a case by case.

178  
179 Pete Hallenbeck: It is so hard to get everything down in English. A lot of these compatibility issues means if it is a  
180 close call it is at the discretion of the BOCC. When we look at all these changes I like to look at the rules and format.  
181 What are the rules and then there is the content. Is the general setup and format acceptable in terms of rules and  
182 are there specific things in the table of permitted uses I don't like and use that as a way to clarify.

183  
184 Lisa Stuckey: On page 14, the towns recommended the four uses that we deleted from the rural buffer. What was  
185 their thinking?

186  
187 Perdita Holtz: I went to seven meetings with the Town of Carrboro for this discussion. It came down to some of them  
188 wanted to vote for something and they wanted this to go forward and so they asked their colleagues what their  
189 reservations were and that is what they came up with.

190  
191 Pete Hallenbeck: It would be interesting to get a current inventory of any agricultural facilities within the rural buffer  
192 that have buildings over 5,000 square feet which would address your setbacks. Another one would be a scatter plot  
193 of lots to see how many 100 and 200 acre lots that someone could turn into a farm.

194  
195 Paul Guthrie: Is there any language in what you have been working on relative to a piece of property that is  
196 legitimately classed as agricultural and wants to begin processing that is now currently under tax leniency? Is there a  
197 requirement that the tax be paid before the permit is issued?

198  
199 Perdita Holtz: To qualify for the tax value program, if they don't meet the requirements of the tax value program, they  
200 will probably drop the tax value for that portion of the property.

201  
202 Lydia Wegman: Do you know of any farmers interested in these activities?

203  
204 Perdita Holtz: We have had a few inquiries.

205  
206 Pete Hallenbeck: I like the fact that the APB is involved. I like the rules on the format. There will always be  
207 differences of opinion.

208  
209 **MOTION:** Made by Buddy Hartley, seconded by Tony Blake

210 **VOTE:** (7-1) Lydia Wegman opposed.

211  
212 Lydia Wegman: I support some of the uses, but have concerns with a community meat processing facility and why it  
213 should be included in the Rural Buffer. To me the Rural Buffer should remain rural and a place to come and relax,  
214 enjoy the country. A meat processing facility does not fit into my view of the Rural Buffer.

215

216 Pete Hallenbeck: Just to clarify, you are saying a rural buffer, not an agricultural buffer, and it is a mistake to assume  
217 the two are synonymous.

218  
219 Lydia Wegman: I know the Rural Buffer definition includes agriculture and I am in support of that, but with concerns  
220 over inability to raise nuisance questions over odors under state law, I am not comfortable having that in the Rural  
221 Buffer. I will also note that on the community meat processing, part of my concern is that it is permitted by right. If  
222 there were an SUP required with input from the neighborhood, I would be willing to support it.

223  
224 Paul Guthrie: Any meat processing of any scale will require significant water and water disposal which comes under  
225 a whole different thing. Getting a permit could be difficult.

226  
227

228 **AGENDA ITEM 8: COMMITTEE/ADVISORY BOARD REPORTS:**

229 a. Board of Adjustment

230

231 Michael Harvey: Board of Adjustment did not have a meeting.

232

233 b. Orange Unified Transportation

234

235 Paul Guthrie: Bicycle safety issues will be on the agenda for the next two meetings with a recommendation to the  
236 BOCC in June.

237

238

239 **AGENDA ITEM 9: ADJOURNMENT:**

240

241 **MOTION** by Lisa Stuckey to adjourn. Seconded by Tony Blake.

242 **VOTE: UNANIMOUS**

**MINUTES  
PLANNING BOARD  
JUNE 3, 2015  
REGULAR MEETING**

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6 **MEMBERS PRESENT:** Pete Hallenbeck, Chair  
7 Lydia Wegman,  
8 Lisa Stuckey,  
9 Tony Blake,  
10 James Lea,  
11 Maxecine Mitchell,  
12 Herman Staats,  
13 Paul Guthrie,  
14 Laura Nicholson,  
15 Bryant Warren,  
16 Andrea Rohrbacher,  
17 Buddy Hartley  
18

19 **STAFF PRESENT:** Craig Benedict, Planning Director  
20 Erica Gray, Administrative Assistant II  
21 Michael Harvey, Current Planning Supervisor  
22 Ashley Moncado, Planner II  
23 Rachel McCook, Planning Technician  
24

25 **AGENDA ITEM 1: CALL TO ORDER**  
26

27 Craig Benedict: I would to introduce Erica Gray, Administrative Assistant II within the Planning Inspections Department.  
28 She will be the new secretary to the Planning Board. She will replace Tina Love.  
29

30 **AGENDA ITEM 2: INFORMATIONAL ITEMS**  
31 a) Planning Calendar for June and July  
32  
33

34 **AGENDA ITEM 3: APPROVAL OF MINUTES**  
35 a) APRIL 1, 2015 REGULAR MEETING  
36

37 Pete Hallenbeck: Motion to approve the minutes. The minutes weren't sent out electronically? Let's shelve that.  
38  
39

40 **AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA**  
41

42 No changes to the agenda.  
43  
44

45 **AGENDA ITEM 5: PUBLIC CHARGE**  
46

47 Introduction to the Public Charge

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

### 9 **Public Charge**

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

### 16 **AGENDA ITEM 6: CHAIR COMMENTS**

17  
 18 Pete Hallenbeck: I would like to thank everyone for attending the Quarterly Public Hearing.

21 **AGENDA ITEM 7: MAJOR SUBDIVISION CONCEPT PLAN:** To review and make a decision on a Major Subdivision  
 22 Concept Plan (using the Flexible Design Option) application (Henderson Woods) seeking to  
 23 subdivide a 48 acre parcel of property into 19 single family residential lots with 21.2 acres  
 24 (44% of the site) held in common open space. The proposed subdivision is located at the  
 25 intersection on Erwin Road and Whitefield Road in Chapel Hill Township.

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

28  
 29 Michael Harvey: Reviewed abstract.

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

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

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

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

1 to use it could open the gate to use it.

2  
3 Laura Rohrbacher: What about delivery trucks?

4  
5 Tom Heffner: FedEx will be encouraged to use the subdivision streets rather than the private road.

6  
7 Pete Hallenbeck: Is that road going to be taken off the GIS system as a road that segment there? If you don't it would  
8 show up for emergency responders as a valid route they could take.

9  
10 Craig Benedict: Probably addressing off that road and emergency services has a point on Erwin Road where they  
11 expect to see that road. They will have an asterisk on it because of what has happened around it but my thought  
12 process is that if the address is off that road indicate the point of entry for those lots, it will remain on the GIS system.

13  
14 Pete Hallenbeck: They are currently switching to a system of closely dispatch that looks for all possible roads and  
15 routes and there is no mechanism to show if the road is full access or not.

16  
17 Michael Harvey: You will probably see that occur if the project is approved and recorded. This will remain as an  
18 easement (Mr. Harvey was pointing to a map of the identified easement area) but the road name will be removed.

19  
20 Paul Guthrie: On the open space buffering outside the lot, what is going to be the legal long-term ownership and legal  
21 responsibility for that property?

22  
23 Tom Heffner: It would be owned by a homeowner's association as incorporated body. Their legal documents would  
24 require their ownership and their maintenance of the property and then in turn there would be homeowner's dues paid  
25 by the people living in the subdivision that would fund that work on an ongoing basis.

26  
27 Michael Harvey: If this is approved with a flexible development layout, there will be provisions in the resolution of  
28 approval as there are in all major subdivision based on the flexibility and design guidelines to preclude the clearing of  
29 the trees within the dedicated open space except for any activity recognized by the board such as the installation of a  
30 trail or recreation area.

31  
32 Paul Guthrie: My question was about long term liability and things that take place on that and the ability or not of that  
33 being removed from open space.

34  
35 Michael Harvey: This area could not be removed from open space unless the applicant came back to the county to  
36 request a modification of the major subdivision. I will state that we would probably object to it being removed because  
37 that is how it was originally approved and we are not interested in seeing dedicated open space turned into developed  
38 area.

39  
40 James Lea: Does Lot 9 actually take up part of the pond?

41  
42 Tom Heffner: Yes. The pond size will be modified. Since it is not a spring fed pond, in the summer when we have less  
43 rain, it drops significantly so my goal is that we will reduce the physical area of the pond to try to have a more stable  
44 water level. The line is showing the maximum size of the pond.

45  
46 James Lea: What happens when you have flooding with the pond?

47  
48 Tom Heffner: Earth Centric engineering is doing storm water plan we have had several meetings on how to handle  
49 that. We can increase the storm water flow downstream to the properties over to the right. We are trying to utilize the

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

3  
4 Pete Hallenbeck: It looks like the drainage to the pond is out the center. Is that through a drain pipe?

5  
6 Tom Heffner: I don't know.

7  
8 Pete Hallenbeck: If it is, you should still have a cut away for hurricane events.

9  
10 Tom Heffner: That will be part of the design.

11  
12 Michael Harvey: I would like to remind the board that on pages 34 and 35, we have provide the board with an email  
13 exchange from David Sykes and Jason Shepard of Orange County Emergency Services as well as Mike Tapp who is  
14 the deputy chief of the local volunteer fire department indicating there are two existing water sites that would support  
15 fire suppression activity. The question was asked, does this pond need to be turned into a water source. Mr. Tapp has  
16 indicated it does need to be there as there are existing water sources they will take advantage of. We did not require a  
17 stand pipe for this pond.

18  
19 Lydia Wegman: How many properties currently use Shakori Trail as an access point?

20  
21 Tom Heffner: There are two properties. One property has two houses and the other has one building.

22  
23 Lydia Wegman: There is no expectation of expansion?

24  
25 Tom Heffner: Those people probably do have subdivision rights there.

26  
27 Lydia Wegman: They would have rights?

28  
29 Tom Heffner: Exactly.

30  
31 Maxecine Mitchell: I take it the threshold for not having some type of recreational, are we going to be faced with  
32 someone saying I want to put a pool but I don't have enough impervious surface to do anything?

33  
34 Michael Harvey: This parcel of property is not located in a protected or critical watershed overlay district so there is no  
35 impervious limit. There are open space requirements on the lots but nothing that would preclude them from putting in a  
36 pool. The applicant is providing walkways but they are electing to do a payment-in-lieu to the County allowing for  
37 regional park development. In other words the applicant will give the county money that will go to developing parks in  
38 the area.

39  
40 James Lea: You said there would be walkways, does that mean sidewalks and if so, who maintains those sidewalks?

41  
42 Tom Heffner: The homeowners association. I do a meandering concrete sidewalk behind the DOT street right of way.  
43 I am going to do sidewalk on both sides and then another section of sidewalk will come down toward the pond. The  
44 combination of sidewalks on both sides will give about a mile of walking trail.

45  
46 Unidentified Female: Are these houses essentially like the ones in Creekwood?

47  
48 Tom Heffner: Based on the probable lot size will be.

49

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

2

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

5

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

7 **VOTE:** Unanimous

8

9

10 **AGENDA ITEM 8: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS:** To make a recommendation to  
11 the BOCC on government-initiated amendments that would modify allowable impervious  
12 surfaced area within the county's zoning jurisdiction through the installation of infiltration based  
13 storm water features. This item we heard at the May 26, 2015 quarterly public hearing.

14

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

16

17 Michael Harvey: Reviewed abstract.

18

19 Herman Staats: You mentioned that if someone decides to use this plan that it is then the responsibility of the property  
20 owner to maintain it? Is there some type of recommendation that when a person in the future chooses to but the  
21 property, how will they be notified of that?

22

23 Michael Harvey: We require the recordation of an operations and maintenance agreement on the deed. That requires  
24 disclosure and that is where a new property owner will be notified of their responsibilities.

25

26 Herman Staats: This issue has come up because the developer of a recent project assigned different levels of  
27 impervious surface not equally across the whole project and not necessarily based on individual property acreage so is  
28 there a regulation that has that developer disclose that information to the buyer?

29

30 Michael Harvey: Yes. It is memorialized on plats and declarations of restrictions we require to be recorded with a  
31 subdivision project. The planning staff, as part of our continuing education efforts, produces site assessments designed  
32 to identify environmental constraints and development limitations on property. This includes a breakdown of the  
33 allowable impervious surfaces for a given parcel. Staff provides as much detail as possible on recorded plats,  
34 declarations of restrictions, etc.

35

36 Herman Staats: Are real estate attorneys aware of this?

37

38 Michael Harvey: They ought to be.

39

40 Lisa Stuckey: By the time you get to the attorney....

41

42 Herman Staats: If the realtor has not done their job.....

43

44 Tony Blake: I would suggest you put a color coding or make it more obvious than it is.

45

46 Craig Benedict: We find out how much impervious is allowed on the entire parcel, deduct the road and say this is how  
47 much you have left. Then leave it to the developer to apportion out that impervious.

48

49 Tony Blake: I would suggest a ratio, lot size to impervious surface.

1  
2 Lydia Wegman: I would support doing something like Craig. I was at the BOCC where this was considered, Dr. Sexton  
3 spoke and it's clear that she was hurt by the way the developer divided the impervious surface. I wanted to flag that the  
4 Commission of the Environment has not yet offered its view. I'm on the Commission for the Environment. We are very  
5 concerned about this change and will be putting in a formal statement in before the BOCC hearing. The impudence  
6 seems to be the consequence of the developer's not fairly dividing impervious surface and there doesn't seem to be,  
7 from an environmental statement, any benefit to making this change. We discussed if this were to go forward, trying to  
8 make sure there are hooks to ensure that the BMP is properly maintained and potentially asking for a bond or some  
9 kind of certification on a yearly or bi-yearly basis that in fact it is being properly maintained and having provisions for  
10 inspection.

11  
12 Michael Harvey: There will have to be an operations and maintenance agreement recorded with this modification  
13 process that will spell out how the stormwater feature will have to be maintained, yearly certification requirements, bi-  
14 annual inspections completed by the staff. If they fail to abide by these standards, we either compel the property owner  
15 to remove not only the feature but also the additional impervious surface area or install a whole new BMP and go  
16 through the process again.

17  
18 Paul Guthrie: Are existing properties grandfathered in as they are or are they vulnerable when they come in for any  
19 modification on that property to these standards?

20  
21 Michael Harvey: If you have platted lot and you either have an impervious surface allotment that was assigned as part  
22 of the subdivision process or, if it wasn't, you have an impervious surface allotment based on the provisions of Article 4  
23 of the UDO.

24  
25 Paul Guthrie: I was thinking about my own lot we bought in 2004 which was platted in the early 1980s and I read those  
26 documents pretty closely and I don't remember in any of the transfer documents any discussion about impervious  
27 surface.

28  
29 Michael Harvey: When a property owner has to get building permits or zoning permits that is when they typically find  
30 out what their impervious surface allowances area. Orange County adopted its first impervious surface limitation  
31 standards in 1989 in the University Lake area and we have moved on since then with the most recent revision being  
32 done within the Upper Eno Critical area and that was 2010 so there has been tweaking of impervious regulations since  
33 the original adoption in 1989.

34  
35 Paul Guthrie: In subdivisions like this and the one I live in, the homeowners owns the roadways. It is not state road but  
36 a private road with sidewalks, etc. Is that use of an impervious surface allocated to each of the property owners or  
37 each of the owners of the street?

38  
39 Michael Harvey: We require developers to identify what is the cumulative amount of allowable impervious surface for  
40 the property and then to identify the amount of roadway infrastructure to be installed. This area, specifically the  
41 impervious surface area intended for the proposed roadways, is subtracted from the cumulative allotment of the parcel.  
42 Remaining impervious surface area is then divided up between the rest of the proposed individual lots so that no one lot  
43 is not encumbered by the impervious surface area in a roadway. The flip side is instead of getting 6%, 12%, 24% on  
44 individual lots you are getting a reduction because the developer has already backed out the roadway serving individual  
45 lots from the total allowable impervious surface area for a given parcel.

46  
47 Lisa Stuckey: If there are 20 lots, and the roads are part of the impervious surface, does each lot carry the weight of  
48 1/20<sup>th</sup> of the road?  
49

1 Michael Harvey: Theoretically but that is technically up to the developer as there is no existing County regulation  
2 mandating same. From my standpoint what happened at Triple Crown was an abomination and did not represent the  
3 standard operating procedure we currently recognize within the Department in addressing this issue. Because the  
4 developer wanted to allow and allot additional impervious area to support a huge roadway and an oversized traffic  
5 circle then also give additional impervious to some of the smaller lots to make them more marketable for his specific  
6 development proposal we have the problem we now have. From my standpoint most of the issues in Triple Crown were  
7 created to address marketability and profit margin concerns of the developer.

8  
9 Lisa Stuckey: Would that happen today?

10  
11 Michael Harvey: No not from my standpoint. The staff is looking at the viability of requiring lots within a given  
12 subdivision to have a set percentage of impervious but that will be difficult in all cases.

13  
14 Lisa Stuckey: Going forward what is the rule?

15  
16 Michael Harvey: There is no mandatory requirement in the UDO.

17  
18 Craig Benedict: This is a negotiation staff is having with a developer. That occurs at the developer review.

19  
20 Lisa Stuckey: I'm so skeptical that after I put down my pervious driveway and let it become impervious I am very  
21 skeptical the county will dig up my swimming pool.

22  
23 Craig Benedict: There is a balance. Some people have no restrictions of impervious in the county and some people  
24 have 6% which is very low. Should people have the right to have normal accessory structures on their property for  
25 personal enjoyment if there is no degradation to a standard that is accepted by the state? In this case, we are allowing  
26 some leeway and allowing them to enjoy their land without degradation to some very strict requirements we had.

27  
28 Pete Hallenbeck: You are saying as a member of the planning board that you support the concept of the performance  
29 bond.

30  
31 Lisa Stuckey: Yes I am. Is the state developing other BMPs besides the impervious surface?

32  
33 Michael Harvey: One of the reasons we changed the language to the proposed ordinance is to make it an infiltration  
34 based storm water feature was an attempt to allow so something other than just permeable concrete. Having said that  
35 the proposed feature required to take advantage of this allowance has to be a infiltration based stormwater feature.  
36 The simple act of digging of a pond does not create a proper feature in my mind as all the pond does is capture runoff.  
37 It is not necessarily treated before it is introduced into either a second conveyance system or it absorbs into the ground.  
38 Requiring an engineered designed stormwater feature that is based on an infiltration model, our hope is that the state  
39 would recognize the system as being reasonable as it captures and allows the water to treated prior to its infiltration.  
40 The state is revising the entire BMP manual but it is based on the notion that an engineer can design an innovate  
41 infiltration based system that as long as it complies with state minimum standards it can still qualify for additional  
42 allotment of impervious. I didn't want to allow any storm water feature which I don't think is supported by the state's  
43 BMP manual.

44  
45 Lydia Wegman: It seems to me the county needs to protect its most resources and the problem is the developer who  
46 mistreated the people who were buying the lot from the standpoint of impervious surface allotment and that we are  
47 revising a rule that has been in place for some time. I don't see that as a good reason to revise this rule which has  
48 worked very effectively in the county. It seems if the problem is with the developer then revising the UDO to put in

1 place a rule that makes it clear what a developer establishing what a developer can and cannot do would be a better  
2 solution than potentially allowing more run off into the most protected areas of the county.  
3

4 Tony Blake: I completely agree. The developer did not disclose what the ramifications are and it would have affected  
5 his lot prices. I tend to think to put the onus back on the developer to disclose this impervious surface ratio or what have  
6 you to the homeowner...  
7

8 Michael Harvey: Respectfully you don't know that what you are suggesting didn't occur. This is a project platted almost  
9 10 years ago and none of us, including staff, was involved in any discussion between the developer and potential  
10 property owners.  
11

12 Tony Blake: I am focusing on the loop hole that this project took advantage of. If it is a matter of record, in the closing,  
13 that this is disclosed, problem solved in my mind.  
14

15 Herman Staats: I agree. I would be in favor of proper and effective disclosure and communication but if, for these  
16 impervious surface exceptions, if they are engineering correctly, why would they be a deterrent to the environment.  
17

18 Lisa Stuckey: I am concerned about what the state will call a BMP. I don't have enormous confidence in our state's  
19 ability to protect the environment. I haven't heard of other instances with the rules as they are currently and I don't  
20 know why that should be a basis of changing the rules.  
21

22 Paul Guthrie: Let me tell you why I stirred it up. If you read the teacher tenure reading ruling in the state's courts, they  
23 are taking notice of issues of contract. It seems to be that someone that didn't receive notice of limitation that they  
24 eventually wanted to change could not go into court against the whole rule as a taking without due process so I think we  
25 need to be very careful how the administration and the language that is used as setup this system on limits on property  
26 knowing that down the road, it may or may not be transferred in a way the next buyer understands what the limits on  
27 the property are. We need to be as clear as we can. Is our system providing due process?  
28

29 Herman Staats: In this example of what we are not supposed to be focusing on but we are, the owner was the  
30 developer and he did so he knew what he was doing so it wasn't something taken away from him, he is the one who did  
31 it, he was the owner.  
32

33 Lisa Stuckey: What is being recommending is giving not a taking.  
34

35 Paul Guthrie: In the specific case you are talking about is that offended buyer could go after both the owner and the  
36 legal authority that is running it. I was concerned how we can document that people can, with due diligence, what the  
37 property is limited too or not limited to.  
38

39 Craig Benedict: The County has a recorded document that lists the development restrictions in that lot in writing. The  
40 plat has it and the declaration of restrictions has it as well.  
41

42 Pete Hallenbeck: We have all these exceptions, etc. and for a normal person buying a house, they will not wrap their  
43 head around those details unless they have been bitten in the past.  
44

45 Lisa Stuckey: How big a problem is it?  
46

47 Pete Hallenbeck: It is unlikely this is the first person who has run into this.  
48

1 Craig Benedict: We don't know how many people get to planning. We have a very strict limit in Orange County. We  
2 are suggesting minor flexibility that 6% may be difficult. Our standards are very tight. We are still 25% below what the  
3 state allows us to do.

4  
5 Maxecine Mitchell: When you talk about purchasing a home and being a realtor myself, I guarantee you that lady didn't  
6 say, at some point I am going to add a swimming pool. If you do that a realtor may be able to direct you. The staff did  
7 inform Commissioner Barry Jacobs was concerned about the critical watershed. Is this place falling into that area?

8  
9 Michael Harvey: Yes ma'am, we did not amend the proposal to exclude this option.

10  
11 Buddy Hartley: I do like what staff has done with this giving flexibility and still has guidelines that will have to be  
12 enforced with this. They are consistent with the UDO and I like the package they have put together.

13  
14 Herman Staats: I agree with that and following Craig's comment that Orange County does have strict definitions on  
15 these things.

16  
17 Pete Hallenbeck: It's easy to look at that and say if you approve this, all you have to do is put down this spongy  
18 concrete and you are good to go but to exceed the limits you have to have an engineered solution that is a BMP.

19  
20 Michael Harvey: Obviously, there is the hope for some people who have talked to staff about this, you have to show us  
21 this will not result in a negligible increase in runoff or basically water quality issues. That was a selling point to OWASA.

22  
23 Pete Hallenbeck: It is an engineered solution. It is an option available.

24  
25 Lisa Stuckey: People let stuff go.

26  
27 Tony Blake: I agree with that. I wonder if this is a problem in search of a solution. When people see what this is really  
28 going to cost them, do we really want to add an artificial complexation in reaction to this one instance? I wouldn't vote  
29 against this but I think there is an easier solution elsewhere.

30  
31 Pete Hallenbeck: I think its clear people want to see a performance bond, inspections, I want everyone to understand  
32 that it is an engineered solution you don't just put things down. We have a statement of consistency. There is a  
33 document called the Comprehensive Plan and the UDO and the two are often in conflict that we shouldn't be changing  
34 structure and detail unless in aligns with the general Comprehensive Plan. The statement of consistency is that it is  
35 consistency with the Comprehensive Plan and the proposed amendment package.

36  
37 MOTION made by Buddy Hartley that this is consistent with the Compressive Plan. Seconded by Bryant Warren.

38  
39 Lisa Stuckey: I would be much more comfortable with this if putting up a bond were required?

40  
41 Michael Harvey: You will be adding that in a motion to approve, you will be including that.

42  
43 VOTE: 11 to 1 no (Lydia Wegman)

44  
45 Lydia Wegman: I don't think it is environmentally responsible to make this change. I think the staff has done an  
46 excellent job. This is a broad solution to solve a very limited problem and there should be limited solution to that limited  
47 problem.

48  
49 MOTION made by Lisa Stuckey to approve with amendments on page 60. Seconded by Laura Rohrbacher.

1 VOTE: 10 to 2 no (Lydia Wegman/Paul Guthrie)

2

3 Lydia Wegman: The same as before but I will note if this does move forward and the BOCC does want to approve this I  
4 support the amendment that is offered on a performance bond and I think that would be a significant improvement to  
5 the proposed change.

6

7 Paul Guthrie: I would echo that. I am not satisfied we have gone to the depth we should have gone to on both of these  
8 issues because they go a lot further than this committee. How do you measure impervious surface?

9

10 Michael Harvey: We are going out as staff with a measuring wheel and tape measure or a surveyor does it and we are  
11 making the surveyors notes are accurate.

12

13 Paul Guthrie: How do you know the surface you are measuring is impervious?

14

15 Michael Harvey: If it is gravel, covered by building a roof, if it is structure it is impervious. Impervious surface area is  
16 defined within the UDO as a surface composed of any material that impedes/prevents the natural infiltration of water  
17 into the soil. Such surfaces include concrete, asphalt and gravel surfaces. These include but are not limited to streets  
18 and parking areas, sidewalks, patios and structures that cover the land. It does not by state definition include the deck  
19 or the water in the swimming pool.

20

21 Paul Guthrie: It doesn't include natural features.

22

23 Michael Harvey: Right.

24

25

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

30

31 **Presenter:** Ashley Moncado, Special Projects Planner

32

33 Ashley Moncado: Reviewed abstract.

34

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

38

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

40

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

42

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

44

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

47

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

49

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

2

3 Pete Hallenbeck: This is a state issue.

4

5 Michael Harvey: We are doing this amendment because the state recognizes this specific unit. Previously, our  
6 ordinance allowed for a mobile home to be on a property every year. We had to recognize it because the state said we  
7 had to allow this and it was a compromise to what was really and unreasonable process to allow for a temporary  
8 custodial mobile home that imposes an additional cost.

9

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

12

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

15

16 Lisa Stuckey: Could we recommend losing that limitation?

17

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

20

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

23

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

26

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

29

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

33

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

36

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

38

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

41

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

43

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

46

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

1  
2 Pete Hallenbeck: All that's true, the states going to do it, they've been quietly whacking away at everything. The only  
3 think I would say on amending this is do you want to take this one funny thing being rammed down our throats and try  
4 and solve a problem or do you want to take the rest of the UDO and really really solve a problem. I don't have a strong  
5 feeling about it, the only thing I would say is if you're taking out the family thing don't charge them.  
6

7 James Lea: Does this amendment require a special use permit?  
8

9 Michael Harvey: No, because state law says you have to allow it.  
10

11 James Lea: You have to allow this?  
12

13 Michael Harvey: Yes.  
14

15 Paul Guthrie: That's why it's really touchy if we take this and say oh here's this problem and get rid of something and  
16 now's there's this thing that we have to allow and what's that going to bring to it.  
17

18 Tony Blake: General standards aids submittal requirements 1 a & b are really there to do what you are talking about  
19 which is say it's harder to judge a family than someone else.  
20

21 Pete Hallenbeck: That's a good point it's harder and charge is also nebulous right  
22

23 Tony Blake: Right.  
24

25 Pete Hallenbeck: Grandma you can live here I got this little thing you need to sign in regards to your estate first.  
26

27 Paul Guthrie: If the state requires this to why do we have to put it in the UDO?  
28

29 Tony Blake: Because the state has to come in and inspect them and do all of that right  
30

31 Paul: The 2<sup>nd</sup> thing is if it is possible to basically do this under existing UDO provisions why get us into this business of  
32 degree of relationship?  
33

34 Ashley: Currently this type of use has no way to permit it under the UDO because it is specific to new use. There's  
35 nothing that qualifies for it to be permitted to the UDO and we are going through this process to be consistent with state  
36 regulations to identify new UDO. Now that you're looking at doing all these types of amendments if we weren't going  
37 through this process then it would be permitted as state statue. Currently it is allowed to be permitted and we are  
38 trumping the state statue if you're removing this regulation regarding the relationship. If someone came in without this in  
39 the UDO we would have to require that relationship.  
40

41 Paul Guthrie: The state doesn't require a facility to be built but does the state specify who can use it?  
42

43 Ashley Moncado: Yes  
44

45 Paul Guthrie: Anybody?  
46

47 Ashley Moncado: Well do they specify it has to be a physically or mentally impaired individual NC resident.  
48

49 Lydia Wegman: And a relative

1  
2 Ashley Moncado: Yes

3  
4 Paul Guthrie: And a NC resident on top of that?

5  
6 Pete Hallenbeck: That's where your submittal requirements came from the state law?

7  
8 Ashley Moncado: Yes, all of this is the state law. We cannot change it if it's not identical it's very similar.

9  
10 Paul Guthrie: The owner of the property has to be a NC resident and the recipient of the housing has to be a NC  
11 resident.

12  
13 Ashley Moncado: Yes

14  
15 Paul Guthrie: The lawyers are going to have a field day with this one.

16  
17 Pete Hallenbeck: And it's going to cost you about \$100,000.

18  
19 Craig Benedict: When you get a mandate from the state and you start trying to tweak it it's a slippery slope. So we can  
20 resolve some of the options about having people not related by blood living in these accessory structures. I would  
21 suggest let's get this statute, preemption of a lot of our other rules, put in and address the other issues about being more  
22 flexible and not having the relationship stuff addressed by other portions of the code. Right now how many people do  
23 we allow unrelated by blood in the house?

24  
25 Ashley Moncado: 3

26  
27 Craig Benedict: Some places allow more than that so I mean there could be a case where you want to go up to 4 or 5  
28 so we would be suggesting other amendments to the code to allow housing opportunities that's the new trend. I think  
29 we could make an amendment to this and the state says are you adhering to us and we say yes and made it even  
30 better and they are like Orange County did something again to our minimums. That's just an idea I think we can  
31 address other sections of the code and since the state is asking for this almost verbatim it would be better to let this fly.

32  
33 Pete Hallenbeck: I don't want to take a bad idea and say we combed it's hair and put lipstick on it and now it's good.

34  
35 Lydia Wegman: Craig, when you say address it in the code you would have to develop new amendments to the code

36  
37 Craig Benedict: Yes

38  
39 Lydia Wegman: Added to the long list already

40  
41 Lisa Stuckey: You could do a completely identical parallel amendment to the code and just change the things we like.  
42 We could have 2 of them sitting there.

43  
44 Pete Hallenbeck: I'll remind everybody that we have this dinner with the commissioners every year and that's an  
45 opportunity to say here are areas that we think would be interesting to look at this might be a very good thing to look at  
46 and now you're going to go through the right process instead of tweaking it and if this goes away, we could still have  
47 our solution.

48

1 Laura Nicholson: I withdraw my amendment request however this is a solution without a problem. It's a unaffordable  
2 ridiculous thing but I am all for complying with state regulations.

3  
4 Tony: 1 question for Mike, this temporary structure does this count against your impervious surface?

5  
6 Michael Harvey: Everything counts against your impervious surface if it meets the definition.

7  
8 Paul Guthrie: Between the septic laws and the impervious surface, I think there can be lots of decisions made on the  
9 process.

10  
11 Lydia Wegman: Craig & Michael you mentioned co-housing and it sounds like some discussion is going on, is that  
12 something this could include addressing this problem that we're talking about?

13  
14 Craig Benedict: Yes. I think this could go true we have new initiatives about affordable housing about small housing but  
15 we've been trying to describe these new housing opportunities out there. Are they mobile homes, are they RVs, are  
16 they micro houses, we will be presenting to the commissioners probably in September of this year. These other type of  
17 housing options would address bringing the parents back in the house. We're into that process, we would expect  
18 getting a green light to address some of those issues in September or October and bringing forward later this year.

19  
20 Lydia Wegman: And would that kind of thing come to the planning board if the commissioners said go?

21  
22 Craig Benedict: Yes, definitely.

23  
24 Lydia Wegman: Thank you.

25  
26 Pete Hallenbeck: We have a statement of consistency to vote on and it says this isn't against what's in the  
27 comprehensive plan. It addresses a .25% improvement on that plan. We'll need a motion to vote on that and then vote  
28 on the specific amendment items here. We'll make a recommendation to the BOCC on the statement of consistency  
29 that yes we think it is consistent.

30  
31 MOTION made by: Buddy Hartley. Seconded by: Bryant Warren

32  
33 Lydia Wegman: Housing goal #2 – Housing that is useable by as many people as possible regardless of age, ability or  
34 circumstances but this is only useable by one person

35  
36 Tony Blake: 1 income

37  
38 Laura Nicholson: it also says affordable housing earlier in that.

39  
40 Lydia Wegman: I don't think it's consistent so I am going to vote No.

41  
42 Pete Hallenbeck: The comprehensive plan and the UDO are often in conflict with each other.

43  
44 Lydia Wegman: I know that.

45  
46 Pete Hallenbeck: We want affordable housing and we want sidewalks.

47

1 Lydia Wegman: I realize that I will just note this requirement to vote on consistency is an empty requirement because  
2 as you say Pete, there's always a lot of inconsistent things in the comprehensive plan and you could find something to  
3 support almost any position in the plan.  
4

5 Paul Guthrie: Are you going to call the vote.  
6

7 Vote 10 to 2 (Paul Guthrie/ )  
8

9 Paul Guthrie: I didn't like it.  
10

11 Pete Hallenbeck: Motion to approve the amendment as in the packet UDO amendments.  
12

13 James Lea: What page is that on?  
14

15 Pete Hallenbeck: 73 attachement 3.  
16

17 Motion by Buddy Hartley. Seconded by Bryant Warren.  
18

19 Pete Hallenbeck: This is the section in red we discussed where it says the submittal requirements and so forth. This  
20 document is very much driven by the state law.  
21

22 Ashley Moncado: Yes  
23

24 Pete Hallenbeck:  
25

26 Vote: 9 to 3 (Lydia Wegman, Lisa Stuckey and Paul Guthrie)  
27

28 Pete Hallenbeck: Paul would you like to say anything.  
29

30 Paul Guthrie: Bad law, we can deal with the issue without it.  
31

32 Lisa Stuckey: I'm voting no simply because I don't think we have all the facts. This is something worth asking the  
33 attorney whether it could be made less restrictive to include nonrelatives to be in compliance with other areas of our  
34 UDO to allow husband and wife to be in there together so I just feel like I would rather let the attorney guide us,  
35 something for county commissioners to ask the attorney.  
36

37 Lydia Wegman: I agree with Lisa. I'm concerned about approving just this piece without having the other pieces. We've  
38 talked about going forward with it so it's clear that we are presenting a whole package of options to people who are  
39 facing this situation. We may need to follow up on Lisa's suggestion and we many need to approve this but I would like  
40 to see if there is a way at the same time to approve something that is broader and meets the needs of many more  
41 people in the county.  
42

43 **AGENDA ITEM 11: ADJOURNMENT**  
44

45 Pete Hallenbeck: Ok. Very good. That was the last item on our agenda. I'll entertain a motion to adjourn.  
46

47 Motion to adjourn made by Bryant Warren. Seconded by Laura Nicholson

**ORANGE COUNTY  
PLANNING BOARD  
ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: July 1, 2015

**Action Agenda  
Item No. 7**

**SUBJECT:** Class A Special Use Permit (SUP) – Schools (Public and Private); Elementary, Middle and Secondary in Chapel Hill Township

---

**DEPARTMENT:** Planning and Inspections

**PUBLIC HEARING:** (Y/N)

Yes

**ATTACHMENTS:**

**INFORMATION CONTACT:**

- |   |  |                                  |
|---|--|----------------------------------|
| 1. Vicinity Map   | Patrick Mallett, Planner II                                | (919) 245-2577                   |
| 2. Additional Correspondence/Evidence Submitted since May 26, 2015 Public Hearing | Michael D. Harvey, Planner III<br>Craig Benedict, Director | (919) 245-2597<br>(919) 245-2592 |
| 3. Special Use Permit Findings of Fact  |  |                                  |

**PURPOSE:** To complete review of, and make a recommendation on, a Class A Special Use Permit (hereafter 'SUP') application proposing the expansion/modification of an existing private school in accordance with Section 2.7 *Special Use Permits* of the Unified Development Ordinance (UDO).

As a reminder the review of this item is carried out in a *quasi-judicial* format. Decisions relating to the approval or denial of SUP applications are based solely on the sworn testimony of all parties involved with the case, both those for and against, as well as the review of competent material and substantial evidence submitted during the public hearing. Hearsay, or unsubstantiated opinions are not sufficient testimony.

**CADENCE OF REVIEW:** The review of a SUP is as follows:

- **STEP ONE – NEIGHBORHOOD INFORMATION MEETING:** In accordance with Section 27.2. of the UDO, a Neighborhood meeting was held on April 10, 2015.

*STAFF COMMENT:* The applicants, their consultants Orange county staff and one adjacent property owner attended the meeting. The property owner attended to learn more about the request and determine if the Master Plan included any development along his common property line. Note, the request does not propose any development along this portion of the school's property.

- **STEP TWO – PUBLIC HEARING:** The first step in the review of an SUP application is the holding of a public hearing to allow the applicant and other interested parties to provide sworn testimony related to the proposal.

*STAFF COMMENT:* The required public hearing was held at the May 26, 2015 Quarterly Public Hearing where the following testimony/evidence was entered into the record:

- i. Staff abstract and attachments, including the actual SUP application, Master Plan site plan, staff comments on the project, and copies of the UDO and Comprehensive Plan;
  - ii. Staff testimony on the project and its compliance with various provisions of the UDO;
  - iii. Applicant's sworn testimony, including a submitted financial impact assessment completed by Mr. Everett V. Knight, providing additional information on the project's compliance with the UDO; and
  - iv. Comments from the BOCC, Planning Board, and the general public.
- **STEP THREE – PLANNING BOARD REVIEW:** The Planning Board reviews the request and makes a recommendation on the project's compliance with specific development standards (Section 5.8.4) and the general standards (Section 5.3.2 *Special Uses*) of the UDO. Staff prepares a script to aid the Board in making required findings and denoting the 'evidence' utilized in rendering a decision as contained in Attachment 3.
- STAFF COMMENT:* This Planning Board review will begin at the July 1, 2015 regular meeting where the Board will be asked to make a recommendation.
- **STEP FOUR – DECISION:** The BOCC will receive the Planning Board's recommendation as well as any other written evidence, deliberate, certify the record, close the public hearing, and then render a final decision.

**BACKGROUND:** This item was presented at the May 26, 2015 Quarterly Public Hearing where staff indicated the school began operations in 1984 offering educational opportunities, based on the State curriculum guidelines, for kindergarten through 12<sup>th</sup> grade students. Through this proposal the applicant is requesting to modify and expand the existing campus with the construction and location of new buildings and support facilities over the next 15-years. The plans are envisioned to support an increase in student population to approximately 350 students by 2030, which represents an overall increase in 91 students from current enrolment.

Agenda materials from the Quarterly Public Hearing can be viewed at: <http://www.orangecountync.gov/150526QPHKC.pdf>.

During the hearing, the following comments/questions were posed concerning the application:

- A BOCC member asked if the applicant would be required to secure building and zoning permits prior to the commencement of construction:
 

*RESPONSE:* The applicant will still be required to obtain all the necessary additional development permits (e.g. erosion control, stormwater, site plan(s), building, environmental health) prior to the commencement of land disturbing activities. The granting of this SUP will allow the required permit review process to move forward under the guidance of an approved SUP Master Plan.
- A BOCC member asked what happens if the school does not get approval to expand the existing septic system.
 

*RESPONSE:* If the existing septic system cannot be expanded then development would be curtailed to only those uses and impacts that could be supported with the existing septic system. The applicant understands and accepts the risk.

Note: Initial staff review of the system, soils and potential upgrades indicates that an expansion of the state permitted system would not likely pose any significant issues.

- There was general consensus from BOCC and Planning Board members the applicant's plan for student drop off and pick up was reasonable as denoted on the submitted site plan and that all efforts needed to be taken to ensure there was no congestion on New Jericho Road during peak demand.
- A BOCC member expressed concern over students walking along New Jericho Road.

*RESPONSE:* Both staff and the applicant indicated students do not typically walk along New Jericho Road. There is an existing crosswalk in Millhouse Road allowing students to cross the street to access the existing athletic field. Students access individual school buildings through existing internal (off road) pedestrian paths.

- A Planning Board member asked when the required stormwater system would have to be installed.

*RESPONSE:* Staff indicated the stormwater system would have to be installed with the proposed reconfiguration of the parking areas along New Jericho Road.

Analysis: As required under Section 2.7.4 of the UDO, the Planning Director is required to 'cause an analysis to be made of the application' and pass that analysis on to the reviewing body. In analyzing this request, the Planning Director offers the following:

- a. Application submittal requirements detailed within Section 2.7 of the UDO have been satisfied.
- b. The applicant has demonstrated compliance with respect to landscaping and buffering requirements as detailed within Section 6.8 of the UDO.
- c. The applicant submitted an Environmental Impact Statement, Biological Inventory and Natural Resource Protection Plan as required in Section 2.25 of the UDO.
- d. The applicant has complied with specific development standards associated with the development of a school as detailed within Section 5.8.4 of the UDO.
- e. Comments received from various County agencies (i.e. Sheriff, Fire Marshal, DEAPR, Orange County Health) indicate there are no concerns associated with the request.
- f. Staff has filed the request with the North Carolina State Administrative Clearinghouse and to the Town of Chapel Hill for review and comment. The applicant's proposal does not pose any issues from these agencies and/or jurisdictions.

Comments from the Clearinghouse are contained within Attachment 2.

- g. The applicant has submitted a Traffic Impact Analysis and Internal Circulation Plan to the District Engineer and NCDOT Municipal School Transportation Assistance (MSTA) offices. The plans and proposed improvements meet all their initial concerns.

Planning Director's Recommendation: In accordance with the provisions of Section 2.7.4 of the UDO, the Planning Director recommends **approval** of the application subject to:

- Approval of the recommended Findings of Fact as detailed within Attachment 3,
- The imposition of the recommended conditions detailed within Attachment 3, and

- The Planning Board's and BOCC's ability to make an affirmative finding on the general standards outlined within Section 5.3.2 of the UDO.

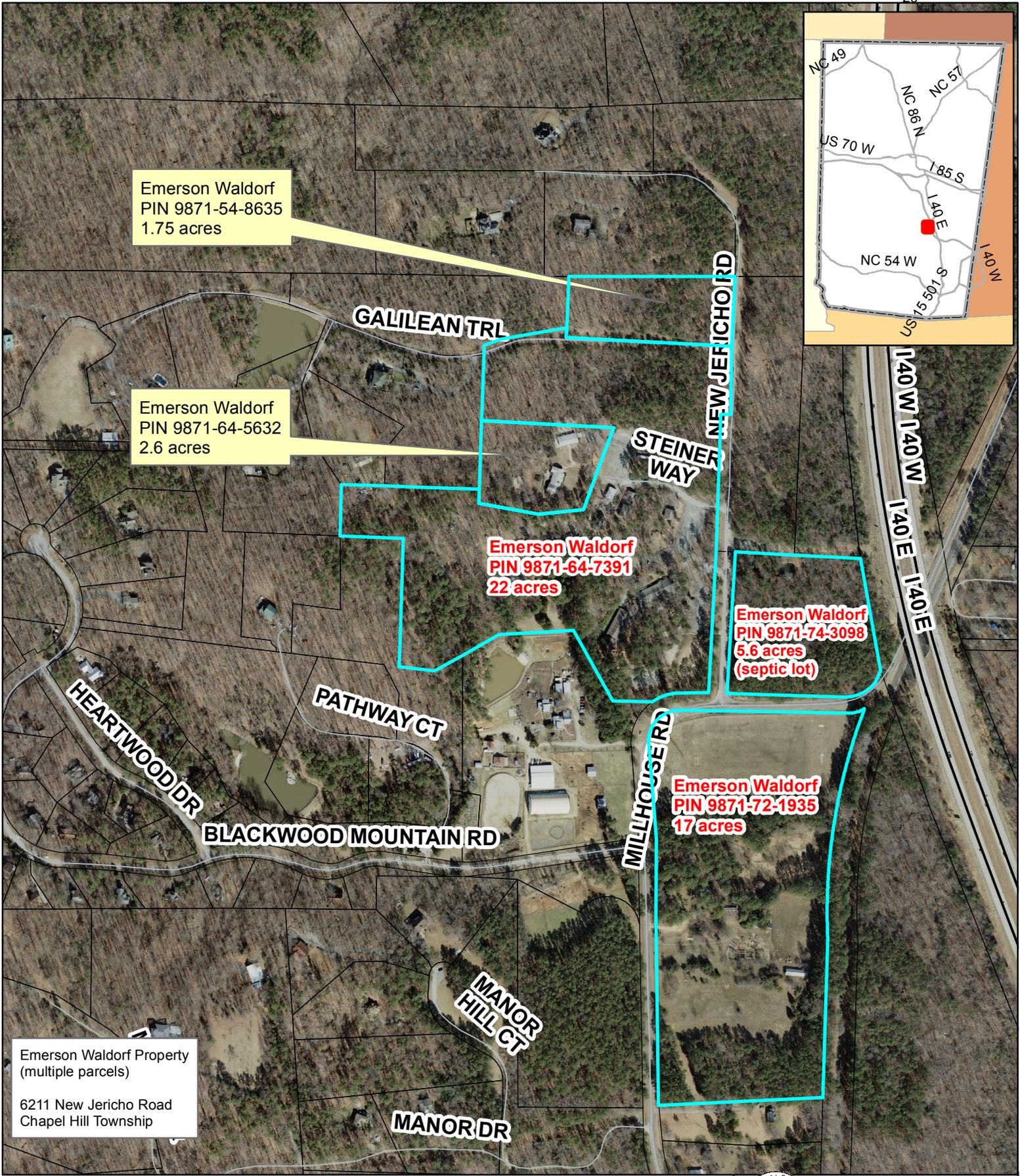
Public Hearing Procedural Information: In accordance with Section 2.7.8 (A) (3) of the UDO, the BOCC has requested that the Planning Board recommendation be made available in time for the September 1, 2015 BOCC regular meeting. As a procedural note, additional comments on the application must be submitted in writing to the Planning Board in order to become part of the official record of these proceedings.

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

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

1. Deliberate as necessary,
2. Review the Findings of Fact and Conditions of Approval as contained in Attachment 3,
3. If deemed necessary, suggest additional conditions or modifications to the site plan, and
4. Make an affirmative recommendation regarding the Findings of Fact and Conditions of Approval as detailed within Attachment 3 in time for the BOCC's September 1, 2015 regular meeting.

Attachment 1 - Vicinity Map



Emerson Waldorf  
PIN 9871-54-8635  
1.75 acres

Emerson Waldorf  
PIN 9871-64-5632  
2.6 acres

Emerson Waldorf  
PIN 9871-64-7391  
22 acres

Emerson Waldorf  
PIN 9871-74-3098  
5.6 acres  
(septic lot)

Emerson Waldorf  
PIN 9871-72-1935  
17 acres

Emerson Waldorf Property  
(multiple parcels)  
  
6211 New Jericho Road  
Chapel Hill Township



1 inch = 417 feet





## North Carolina Department of Administration

Pat McCrory, Governor

Bill Daughtridge, Jr., Secretary

June 1, 2015

Mr. Mike Harvey  
Orange County  
Orange County Planning & Inspections Dept.  
Post Office Box 8181  
Hillsborough, North Carolina 27278

**Re: SCH File # 15-E-0000-0597; EA; Proposal is for the re-development/expansion of the Emerson Waldorf private school off of Millhouse Road. (submitted pursuant to Orange County SEPA ordinance)**

Dear Mr. Harvey:

The above referenced environmental impact information has been reviewed through the State Clearinghouse under the provisions of the North Carolina Environmental Policy Act.

Attached to this letter are comments made in the review of this document. Because of the nature of the comments, it has been determined that no further State Clearinghouse review action on your part is needed for compliance with the North Carolina Environmental Policy Act. The attached comments should be taken into consideration in project development.

Sincerely,

A handwritten signature in cursive script that reads "Crystal Best".

Crystal Best  
State Environmental Review Clearinghouse

Attachments

cc: Region J

**Mailing Address:**  
1301 Mail Service Center  
Raleigh, NC 27699-1301

**Telephone:** (919)807-2425  
Fax (919)733-9571  
State Courier #51-01-00  
e-mail [state.clearinghouse@doa.nc.gov](mailto:state.clearinghouse@doa.nc.gov)

**Location Address:**  
116 West Jones Street  
Raleigh, North Carolina



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

MEMORANDUM

To: Crystal Best  
State Clearinghouse

From: Lyn Hardison   
Division of Environmental Assistance and Customer Service  
Environmental Assistance and Project Review Coordinator

RE: 15-0597  
Scoping – Proposal is for the re-development/expansion of the Emerson Waldorf private school off of Millhouse Road (submitted pursuant to Orange County SEPA ordinance)  
Orange County

Date: May 29, 2015

The Department of Environment and Natural Resources has completed its review of the proposal for the referenced project. Based on the information provided, several of our agencies have identified permits that may be required. The agencies have offered some valuable guidance to be performed prior to application submittals and ground disturbance which will help to minimize impacts to the natural resources, aquatic and terrestrial wildlife resources within and around the project area. The comments are attached for the applicant's review.

If the applicant has any questions pertaining to NCDENR permitting processes, please suggest to the applicant to contact David Lee, Permit Assistance Coordinator, in the Department's Raleigh Regional Office, (919)791-4200 for more permitting assistance. The proposed project is located within his geographic working territory.

Thank you for the opportunity to respond.

Attachments



## North Carolina Wildlife Resources Commission

Gordon Myers, Executive Director

### MEMORANDUM

**TO:** Lyn Hardison, Environmental Assistance and SEPA Coordinator  
NCDENR Division of Environmental Assistance and Customer Services

**FROM:** Shari L. Bryant, Western Piedmont Coordinator *Shari L. Bryant*  
Habitat Conservation

**DATE:** 27 May 2015

**SUBJECT:** Request for Review of Development Application for the Proposed Redevelopment and Expansion of the Emerson Waldorf School, Orange County. DENR Project No. 15-0597

Biologists with the North Carolina Wildlife Resources Commission have reviewed the subject document and we are familiar with the habitat values of the area. Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667e) and North Carolina General Statutes (G.S. 113-131 et seq.).

Waldorf Educational Association of North Carolina, Inc. is requesting to amend their current Special Use Permit to modify and expand the Emerson Waldorf School. The proposed master plan includes construction of buildings and building additions, and improvements to internal roadways, surface parking, pedestrian areas, potable water and septic systems, and stormwater infrastructure. The purpose of the project is to support an increase in students and staff.

An unnamed tributary to Old Field Creek in the Cape Fear River basin flows through the southern portion of the site. It appears the northern portion of the site drains to New Hope Creek. There are records for the federal species of concern and state endangered Carolina creekshell (*Villosa vaughaniana*), brook floater (*Alasmidonta varicosa*), and Atlantic pigtoe (*Fusconaia masoni*), the state special concern notched rainbow (*Villosa constricta*), and the state significantly rare Eastern creekshell (*Villosa delumbis*) and *Lampsilis* sp. in New Hope Creek. In addition, there are records for the state special concern four-toed salamander (*Hemidactylum scutatum*) near the site. The Natural Heritage Natural Area – CPF/New Hope Creek Aquatic Habitat – is located along the section of New Hope Creek downstream of the site.

The U.S. Fish and Wildlife Service recently listed the Northern long-eared bat (*Myotis septentrionalis*) as threatened under the Endangered Species Act. The Northern long-eared bat may be present within or in the vicinity of the project site. Therefore, the project may impact this species and consultation with the U.S. Fish and Wildlife Service may be required. For more information, please see <http://www.fws.gov/midwest/endangered/mammals/nleb/interim4dRuleKeyNLFB.html> or contact the

---

**Mailing Address:** Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721  
**Telephone:** (919) 707-0220 • **Fax:** (919) 707-0028

Page 2

27 May 2015  
Emerson Waldorf School  
DENR Project No.: 15-0597

U.S. Fish and Wildlife Service at (919) 856-4520 to ensure that any issues related to this species are addressed.

We are pleased to see the applicant has a Forest Management Plan (June 2014) for the site and that future site plans will preserve desirable vegetation and other unique natural features when practical. Also, we are pleased to see that stormwater collection will include low impact design and disconnecting impervious surfaces to maximize stormwater infiltration.

We offer the following general recommendations regarding development projects to minimize impacts to aquatic and terrestrial wildlife resources.

1. If wetlands and/or streams will be impacted by construction activities, then the project should be coordinated with the U.S. Army Corps of Engineers and the N.C. Division of Water Resources.
2. Measures to avoid or minimize impacts to wetlands should be implemented during construction. In addition to providing wildlife habitat, wetland areas perform important functions of flood control and water quality protection.
3. Maintain a minimum 100-foot undisturbed, native, forested buffer along perennial streams, and a minimum 50-foot buffer along intermittent streams and wetlands. Maintaining undisturbed, forested buffers along these areas will minimize impacts to aquatic and terrestrial wildlife resources, water quality, and aquatic habitat both within and downstream of the project area. Also, wide riparian buffers are helpful in maintaining stability of stream banks and for treatment of pollutants associated with urban stormwater. In addition, these buffers will provide an adequate travel corridor for wildlife species.
4. Avoid development and fill in the 100-year floodplain. Development and fill in the floodplain increases the potential for flooding and interferes with the natural hydrologic process of the waterways. It also disrupts the continuity of migration corridors for wildlife.
5. Locate sewers and other utilities as far away from streams as functionally possible and minimize stream and wetland crossings. It is preferable that sewers are located outside floodplains and the riparian buffers described in #3.
6. Limit impervious surface to less than 10% or use stormwater control measures to mimic the hydrograph consistent with an impervious coverage of less than 10%.
7. Use non-invasive native species and Low Impact Development (LID) technology in landscaping. Using native species instead of ornamentals should reduce the need for water, fertilizers and pesticides. Using LID technology in landscaping will not only help maintain the predevelopment hydrologic regime, but also enhance the aesthetic and habitat value of the site.
8. Sediment and erosion control measures should be installed prior to any land clearing or construction. These measures should be routinely inspected and properly maintained. Excessive silt and sediment loads can have numerous detrimental effects on aquatic resources including destruction of spawning habitat, suffocation of eggs, and clogging of gills of aquatic species.

Thank you for the opportunity to comment on this project. If we can be of further assistance, please contact our office at (336) 449-7625 or [shari.bryant@newwildlife.org](mailto:shari.bryant@newwildlife.org).



North Carolina Department of Environment and Natural Resources  
Office of Land and Water Stewardship

Pat McCrory  
Governor

Bryan Gossage  
Director

Donald R. van der Vaart  
Secretary

May 22, 2015

**TO:** Lyn Hardison, NCDENR State Clearinghouse Coordinator

**FROM:** Allison (Schwarz) Weakley, North Carolina Natural Heritage Program *Allison Weakley*

**SUBJECT:** Scoping – Proposed re-development/expansion of the Emerson Waldorf School off New Jerhico and Millhouse Roads, Chapel Hill, Orange County, North Carolina

**REFERENCE:** Project No. 15-0597

Thank you for the opportunity to provide information from the North Carolina Natural Heritage Program (NCNHP) database for the proposed project referenced above. The NCNHP database does not show any records for rare species, important natural communities, natural areas, or conservation/managed areas within the proposed project area as depicted in Figure C-1 (by Summit Design and Engineering Services) submitted with the scoping request.

Attached are tables that show records from the NCNHP database for element occurrences (rare species and natural communities), natural areas, and conservation/managed areas that occur within one mile of the project area. A map that shows natural heritage resources documented within one mile of the project area is attached as well.

The Blackwood Mountain natural area is located ca. 0.3 miles west of the project area; the majority of this natural area is part of Duke Forest and is owned and managed for conservation by Duke University as a Registered Natural Heritage Area. There are also records for rare aquatic species located ca. 0.4 miles north of the project area, within the New Hope Creek Aquatic Habitat natural area. The locations of natural areas and conservation/ managed areas near the project area may be viewed by accessing the [Natural Heritage Data Explorer](#) online map viewer, or by downloading and using GIS data; both options are available from the NCNHP Data Services webpage (see [www.ncnhp.org](http://www.ncnhp.org)).

Please note that although the NCNHP database may not show records for rare species within the proposed project area, it does not necessarily mean that they are not present; it may simply mean that the area has not been surveyed. Occurrences of rare species documented within one mile of the proposed project area increase the likelihood that these species may be present within the project area if suitable habitat exists. The use of Natural Heritage Program data should not be substituted for actual field surveys if needed, particularly if the project area contains suitable habitat for rare species. If rare species are found during field surveys, the NCNHP would appreciate receiving this information so that we may update our database.

Feel free to contact me at [Allison.Weakley@ncdenr.gov](mailto:Allison.Weakley@ncdenr.gov) or 919-707-8629 if you have questions or additional information is needed.

1601 Mail Service Center, Raleigh, North Carolina 27699-1601  
Phone: 919-707-8600 \ Internet: [www.ncdenr.gov](http://www.ncdenr.gov)

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**Natural Heritage Element Occurrences, Natural Areas, and Managed Areas Within a One-mile Radius of the Project Area**  
**Emerson Waldorf School - Re-development and Expansion Project**  
**Project No. 15-0597**  
**May 22, 2015**  
**NCNHDE-307**

<b>Element Occurrences Documented Within a One-mile Radius of the Project Area</b>												
Taxonomic Group	EO ID	Scientific Name	Common Name	Last Observation Date	Element Occurrence Status	Accuracy	Federal Status	State Status	Global Rank	State Rank		
Butterfly	34564	<i>Erynnis martialis</i>	Mottled Duskywing	1952-07-01	Historical	5-Very Low	---	Significantly Rare	G3	S2		
Dragonfly or Damselfly	33764	<i>Somatochlora georgiana</i>	Coppery Emerald	2004-PRE	Historical	5-Very Low	---	Significantly Rare	G3G4	S2?		
Freshwater Bivalve	25465	<i>Villosa constricta</i>	Notched Rainbow	2010-03-23	Current	3-Medium	---	Special Concern	G3	S3		
Freshwater Bivalve	25466	<i>Villosa delumbis</i>	Eastern Creekshell	2013-08-16	Current	3-Medium	---	Significantly Rare	G4	S3		
Liverwort	22666	<i>Plagiochila ludoviciana</i>	A Liverwort	1933-04-03	Historical	5-Very Low	---	Significantly Rare	G5	S1		
Natural Community	24140	Dry Oak--Hickory Forest (Piedmont Subtype)	---	2010	Current	3-Medium	---	Rare Peripheral	G4G5	S4		
Natural Community	5283	Mesic Mixed Hardwood Forest (Piedmont Subtype)	---	1988-05-12	Current	4-Low	---	---	G3G4	S4		
Natural Community	24139	Piedmont Monadnock Forest (Typic Subtype)	---	2010	Current	2-High	---	---	G3G4	S3		
Natural Community	19548	Xeric Hardpan Forest (Basic Hardpan Subtype)	---	2010	Current	2-High	---	---	G2G3	S2		
Vascular Plant	16014	<i>Carex bushii</i>	Bush's Sedge	2001-07-03	Current	3-Medium	---	Significantly Rare	G4	S1		
Vascular Plant	10621	<i>Pycnanthemum torreyi</i>	Torrey's Mountain-mint	2001-07-31	Current	3-Medium	Species of Concern	Significantly Rare	G2	S1		

**Natural Areas Documented Within a One-mile Radius of the Project Area**  
**Site Name:** Blackwood Mountain  
**Representational Rating:** R1 (Exceptional)  
**Collective Rating:** C4 (Moderate)

**Natural Areas Documented Within a One-mile Radius of the Project Area**

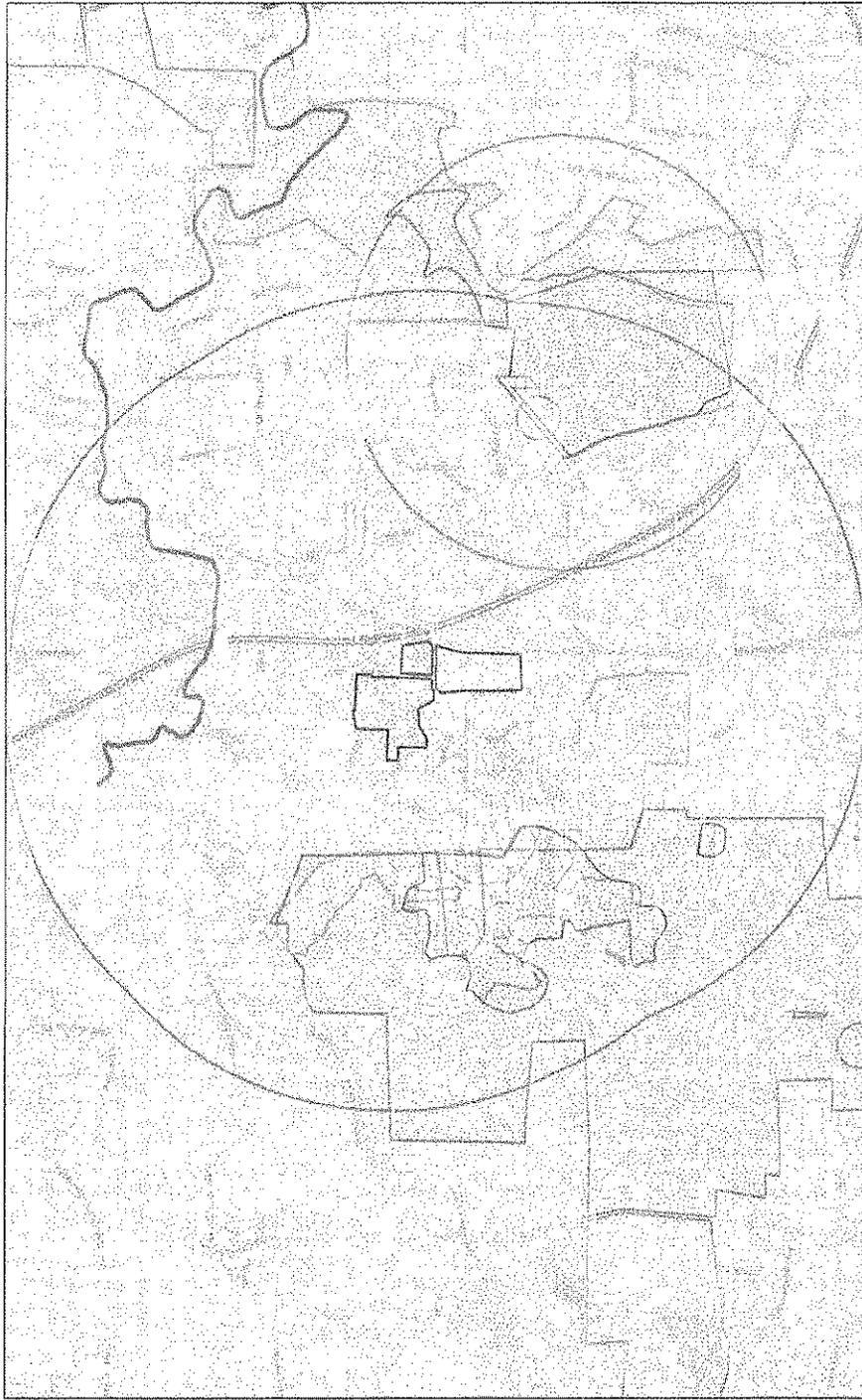
Site Name	Representational Rating	Collective Rating
Eubanks Road Xeric Hardpan Forest	R5 (General)	C5 (General)
Henry J. Oosting Natural Area	R3 (High)	C5 (General)
CPF/New Hope Creek Aquatic Habitat	n/a (Not Applicable)	C3 (High)

**Managed Areas Documented Within a One-mile Radius of the Project Area**

Managed Area Name	Owner	Owner Type
Duke Forest	Duke University	Private
Duke Forest	Duke University	Private
Orange County Open Space	Orange County: multiple local government	Local Government
Triangle Land Conservancy Preserve	Triangle Land Conservancy	Private
NC Clean Water Management Trust Fund Easement	NC DENR, Clean Water Management Trust Fund	State
Blackwood Mountain RHA	Duke University	Private
Blackwood Mountain RHA	Duke University	Private
Duke Forest Post Oak/Blackjack Oak Site RHA	Duke University	Private
Henry J. Oosting Natural Area RHA	Duke University	Private

Definitions and an explanation of status designations and codes can be found at <https://ncnhp.natureserve.org/content/help>. Data query generated on May 22, 2015; source: NCNHP, Q2 April 2015. Please resubmit your information request if more than one year elapses before project initiation as new information is continually added to the NCNHP database.

# NCNHDE-307: Emerson Waldorf School - Re-development and Expansion Project



May 22, 2015

- Project Boundary
- Buffered Project Boundary
- Natural Heritage Element Occurrence (NHEO)
- NHP Natural Area (NHNA)
- Managed Area (MAREA)

0 0.2 0.4 0.8 mi  
 0 0.325 0.65 1.3 km

Scale: East, HERE Def. Cont. Topog. Contour, National P. Cont.  
 GEBCO, USGS, FAD, NPS, VTDOT, CASPAR, VGN, Vantage ML



## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

May 22, 2015

To: Linda Culpepper, Director  
Division of Waste Management

From: Jenny Patterson, Eastern Region Supervisor, Compliance Branch *Jenny Patterson*  
Hazardous Waste Section

Subject: Hazardous Waste Section Comments on Emerson Waldorf School Expansion (Orange County)  
Project Number: 15-0597

The Hazardous Waste Section (HWS) has reviewed the subject Scoping Request for the proposed project which consists of the re-development/expansion of the Emerson Waldorf School located at 6211 New Jericho Road in Chapel Hill, NC in Orange County.

Any hazardous waste generated from the construction, demolition, maintenance, and/or remediation (e.g. excavated soil) from the proposed projects must be managed in accordance with the North Carolina Hazardous Waste Rules. The construction, demolition, maintenance, and remediation activities conducted will most likely generate a solid waste, and the facility must determine if the waste is a hazardous waste. If the project site generates more than 220 pounds of hazardous waste in a calendar month, the HWS must be notified, and the site must comply with the small quantity generator requirements. If a project site generates more than 2200 pounds of hazardous waste in a calendar month, the HWS must be notified, and the facility must comply with the large quantity generator requirements.

The proposed project site does not currently have an EPA Identification number for hazardous waste generation assigned to the property. There are no active hazardous waste generators located within 2000 feet of the proposed project area in Chapel Hill, NC.

This review does not preclude the possibility of historical waste management activities at this site that may have contributed to contamination unknown to this office.

Should any questions arise, please contact me at 336-767-0031.



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

**MEMORANDUM**

DATE: May 13, 2015

TO: Linda Culpepper, Division Director through Kathleen Lance

FROM: Deb Aja, Western District Supervisor - Solid Waste Section

RE: SEPA Review Project #15-0597 – Chapel Hill, Orange County, N.C.  
Emerson Waldorf School Improvements – Updated Campus Masterplan

*Deborah Aja*  
Digitally signed by Deborah Aja  
DN: cn=Deborah Aja,  
ou=Solid Waste Section, ou=  
emrall@dep.state.nj.gov, c=US  
Date: 2015.05.13 15:50:23  
-0400

The Solid Waste Section has reviewed the Environmental Review document for the proposed Emerson Waldorf School improvements/updated campus masterplan, Chapel Hill, Orange County, North Carolina. The review has been completed and has seen no adverse impact on the surrounding community and likewise knows of no situations in the community, which would affect this project from a solid waste perspective.

During construction, the applicant should make every feasible effort to minimize the generation of waste, to recycle materials for which viable markets exist, and to use recycled products and materials in the development of this project where suitable. Any waste generated by this project that cannot be beneficially reused or recycled must be disposed of at a solid waste management facility approved to manage the respective waste type. The Section strongly recommends that any contractors are required to provide proof of proper disposal for all waste generated as part of the project. The nearest permitted facilities to the project are the Orange County C&D Landfill, Chapel Hill, the Waste Management - Chatham County Transfer Station, Siler City, the Stone Court Park Transfer Station, Durham, and the City of Durham Transfer Station, Durham, North Carolina. Additional solid waste facility information for solid waste facilities may be found on the Solid Waste Section portal site at: <http://portal.ncdenr.org/web/wm/sw/facilitylist>.

Please contact Mr. John Patrone, Environmental Senior Specialist, for with any questions regarding solid waste management. Mr. Patrone may be reached at (336)-776-9673.

Cc: Jason Watkins, Field Operations Branch Head  
John Patrone, Environmental Senior Specialist  
Sarah Rice, Compliance Officer  
Dennis Shackelford, Eastern District Supervisor



North Carolina Department of Environment and Natural Resources

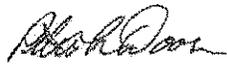
Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

Date: May 22, 2015

To: Linda Culpepper, Director  
Division of Waste Management

Through: Jim Bateson, Superfund Section Chief 

From: Pete Doorn, Special Remediation Branch Head 

Subject: SEPA Project# 15-0597, Proposed Expansion of Emerson Waldorf Private School,  
Orange County, North Carolina

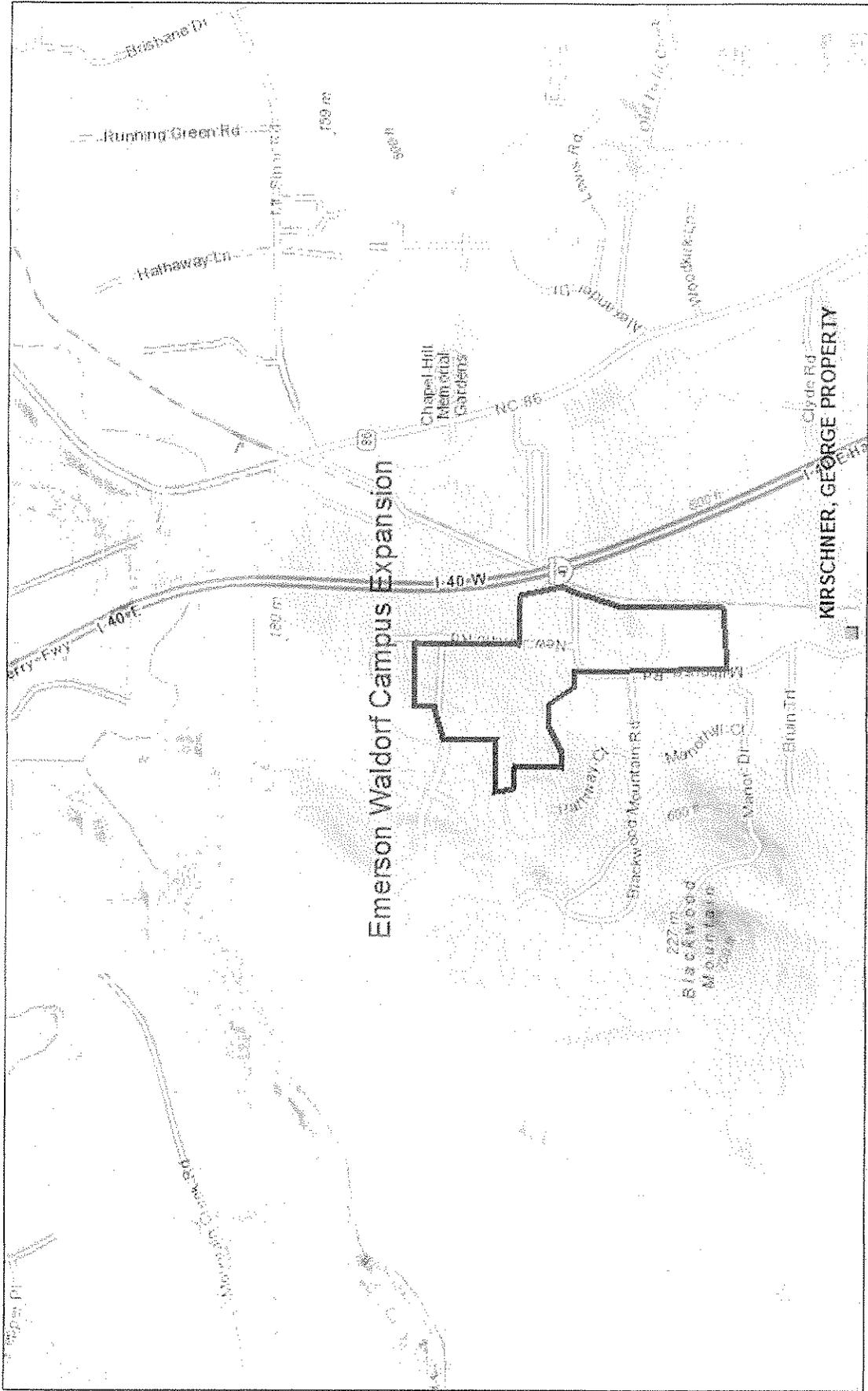
The Superfund Section has reviewed the proximity of CERCLIS and other sites under their jurisdiction to the proposed redevelopment / expansion of the Emerson Waldorf private school. The Emerson Waldorf School is proposing to re-develop and expand their existing campus. The plans are envisioned to support an increase in student population from approximately 260 students to approximately 350 students by 2030. The school obtains its potable water from a supply well located on the campus.

One site was identified within a 1-mile radius of the proposed project as noted on the attached map and in the table below. Due to the proximity of groundwater contamination at the identified site and the projected increased pumping of the school well to meet future demands for potable water, it is strongly recommended that site files be reviewed and appropriate precautions taken to ensure a continued safe water supply for the school. Superfund Section site files can be viewed at: <http://portal.ncdenr.org/web/wm/sf-file-records>.

Please contact me at 919.707.8369 if you have any questions.

ID #	Site Name	Status
NONCD0001961	Kirschner,George Property	Open site on the Inactive Hazardous Sites Inventory

# SEPA #15-0597, Orange County, NC



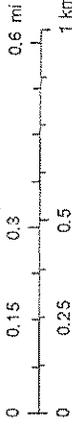
May 20, 2015

Buffer of DWM\_All\_Sites\_SEPA\_040815\_Query Result Buffer of DWM\_All\_Sites\_SEPA\_040815

Override 1

DWM\_JHSB\_033015

1:18,056



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P. Corp., GEBCO, USGS, FAO, NPS, NRCAN, GEBCO, IGN, Kadaster NL



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

May 26, 2015

**MEMORANDUM**

**TO:** Lyn Hardison, Environmental Assistance Coordinator  
Department of Environment and Natural Resources

**FROM:** Harold Brady, SEPA Review Coordinator

**SUBJECT:** Scoping – Emerson Waldorf private school  
DENR# 15-0597

Thank you for providing the Division of Water Resources (DWR) an opportunity to provide comments regarding the proposed re-development/expansion of the Emerson Waldorf private school off of Millhouse Road in Orange County. Scoping conducted pursuant to Orange County SEPA ordinance.

DWR has no objection to the proposed project, but offer the following comments from Danny Smith ((919) 791-4252) of the Raleigh Regional Office:

1. A project that disturbs 1 acre or greater is required to secure an erosion and sedimentation control plan and must comply with construction stormwater permit conditions (NCG010000).
2. The project is in the Cape Fear River Basin (unnamed tributary to Old Field Creek-Water Supply V, - NSW). The USGS Topographic map depicted crenulations and blue line streams that course through the footprint of this tract. Note: the soil survey was not reviewed.
3. If stream, wetland or riparian buffer impacts are proposed, this project will need to comply with/secure a 404 permit from the USACE, obtain a 401 Water Quality Certification and/or secure a riparian buffer authorization. Project is in the Jordan Lake Watershed and will need to comply with Jordan Lake buffer rules. Please contact the Raleigh Regional Office for stream or riparian buffer call (919) 791-4200.

If you have any questions about this comment, please contact me at (919) 707-9005 or [harold.m.brady@ncdenr.gov](mailto:harold.m.brady@ncdenr.gov). Thank you.

After review of this project it has been determined that the ENR permit(s) and/or approvals indicated may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these permits should be addressed to the Regional Office indicated on the reverse of the form. All applications, information and guidelines relative to these plans and permits are available from the same Regional Office.

	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
<input type="checkbox"/>	Permit to construct & operate wastewater treatment facilities, sewer system extensions & sewer systems not discharging into state surface waters.	Application 90 days before begin construction or award of construction contracts. On-site inspection. Post-application technical conference usual.	30 days (90 days)
<input type="checkbox"/>	NPDES - permit to discharge into surface water and/or permit to operate and construct wastewater facilities discharging into state surface waters.	Application 180 days before begin activity. On-site inspection. Pre-application conference usual. Additionally, obtain permit to construct wastewater treatment facility-granted after NPDES. Reply time, 30 days after receipt of plans or issue of NPDES permit-whichever is later.	90-120 days (N/A)
<input type="checkbox"/>	Water Use Permit	Pre-application technical conference usually necessary	30 days (N/A)
<input type="checkbox"/>	Well Construction Permit	Complete application must be received and permit issued prior to the installation of a well.	7 days (15 days)
<input type="checkbox"/>	Dredge and Fill Permit	Application copy must be served on each adjacent riparian property owner. On-site inspection. Pre-application conference usual. Filling may require Easement to Fill from N.C. Department of Administration and Federal Dredge and Fill Permit.	55 days (90 days)
<input type="checkbox"/>	Permit to construct & operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100 thru 2Q.0300)	Application must be submitted and permit received prior to construction and operation of the source. If a permit is required in an area without local zoning, then there are additional requirements and timelines (2Q.0113).	90 days
<input type="checkbox"/>	Permit to construct & operate Transportation Facility as per 15A NCAC (2D.0800, 2Q.0601)	Application must be submitted at least 90 days prior to construction or modification of the source.	90 days
<input checked="" type="checkbox"/>	Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900	N/A	60 days (90 days)
<input checked="" type="checkbox"/>	Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 20.1110 (a) (1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-707-5950.		
<input type="checkbox"/>	Complex Source Permit required under 15 A NCAC 2D.0800		
<input type="checkbox"/>	The Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion & sedimentation control plan will be required if one or more acres to be disturbed. Plan filed with proper Regional Office (Land Quality Section) At least 30 days before beginning activity. A fee of \$65 for the first acre or any part of an acre. An express review option is available with additional fees.		20 days (30 days)
<input type="checkbox"/>	Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable stormwater conveyances and outlets.		(30 days)
<input type="checkbox"/>	Mining Permit	On-site inspection usual. Surety bond filed with ENR Bond amount varies with type mine and number of acres of affected land. Any acre mined greater than one acre must be permitted. The appropriate bond must be received before the permit can be issued.	30 days (60 days)
<input type="checkbox"/>	North Carolina Burning permit	On-site inspection by N.C. Division Forest Resources if permit exceeds 4 days	1 day (N/A)
<input type="checkbox"/>	Special Ground Clearance Burning Permit - 22 counties in coastal N.C. with organic soils	On-site inspection by N.C. Division Forest Resources required "if more than five acres of ground clearing activities are involved. Inspections should be requested at least ten days before actual burn is planned."	1 day (N/A)
<input type="checkbox"/>	Oil Refining Facilities	N/A	90-120 days (N/A)
<input type="checkbox"/>	Dam Safety Permit	If permit required, application 60 days before begin construction. Applicant must hire N.C. qualified engineer to: prepare plans, inspect construction, certify construction is according to ENR approved plans. May also require permit under mosquito control program. And a 404 permit from Corps of Engineers. An inspection of site is necessary to verify Hazard Classification. A minimum fee of \$200.00 must accompany the application. An additional processing fee based on a percentage of the total project cost will be required upon completion.	30 days (60 days)

County <b>ORANGE</b>		Project Number: <u>15-0597</u>	Due Date: <u>5/25/2015</u>	Normal Process Time (statutory time limit)
PERMITS		SPECIAL APPLICATION PROCEDURES or REQUIREMENTS		
<input type="checkbox"/>	Permit to drill exploratory oil or gas well	File surety bond of \$5,000 with ENR running to State of NC conditional that any well opened by drill operator shall, upon abandonment, be plugged according to ENR rules and regulations.		10 days N/A
<input type="checkbox"/>	Geophysical Exploration Permit	Application filed with ENR at least 10 days prior to issue of permit. Application by letter. No standard application form.		10 days N/A
<input type="checkbox"/>	State Lakes Construction Permit	Application fee based on structure size is charged. Must include descriptions & drawings of structure & proof of ownership of riparian property.		15-20 days N/A
<input type="checkbox"/>	401 Water Quality Certification	N/A		60 days (130 days)
<input type="checkbox"/>	CAMA Permit for MAJOR development	\$250.00 fee must accompany application		55 days (150 days)
<input type="checkbox"/>	CAMA Permit for MINOR development	\$50.00 fee must accompany application		22 days (25 days)
<input type="checkbox"/>	Several geodetic monuments are located in or near the project area. If any monument needs to be moved or destroyed, please notify: N.C. Geodetic Survey, Box 27687 Raleigh, NC 27611			
<input checked="" type="checkbox"/>	Abandonment of any wells, if required must be in accordance with Title 15A. Subchapter 2C.0100.			
<input checked="" type="checkbox"/>	Notification of the proper regional office is requested if "orphan" underground storage tanks (USTS) are discovered during any excavation operation.			
<input type="checkbox"/>	Compliance with 15A NCAC 2H 1000 (Coastal Stormwater Rules) is required.			45 days (N/A)
<input type="checkbox"/>	Catawba, Jordan Lake, Randalman, Tar Pamlico or Neuse Riparian Buffer Rules required.			
<input checked="" type="checkbox"/>	Plans and specifications for the construction, expansion, or alteration of a public water system must be approved by the Division of Water Resources/Public Water Supply Section prior to the award of a contract or the initiation of construction as per 15A NCAC 18C .0300 et. seq. Plans and specifications should be submitted to 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. All public water supply systems must comply with state and federal drinking water monitoring requirements. For more information, contact the Public Water Supply Section, (919) 707-9100.			30 days
<input checked="" type="checkbox"/>	If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Water Resources/Public Water Supply Section at 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. For more information, contact the Public Water Supply Section, (919) 707-9100.			30 days

Other comments (attach additional pages as necessary, being certain to cite comment authority)

Division	Initials	No comment	Comments	Date Review
DAQ	ddm	<input type="checkbox"/>		5/15/15
DWR-WQROS (Aquifer & Surface)	ds rb	<input type="checkbox"/> <input type="checkbox"/>	Expansion of capacity may require a modification to the existing non-discharge permit	5/21/15 5/28/15
DWR-PWS	wah	<input type="checkbox"/>	See last two checked boxes	5/13/15
DEMLR (LQ & SW)	JLH	<input type="checkbox"/>	This project appears to be adequately addressed under the local S&E program.	5/22/15
DWM - UST	MRP	<input type="checkbox"/>	Notify the UST Section at the Raleigh Regional Office if petroleum-contaminated soil or groundwater is encountered during construction activities.	5/26/15

### REGIONAL OFFICES

Questions regarding these permits should be addressed to the Regional Office marked below.

**Asheville Regional Office**  
2090 US Highway 70  
Swannanoa, NC 28778  
(828) 296-4500

**Mooresville Regional Office**  
610 East Center Avenue, Suite 301  
Mooresville, NC 28115  
(704) 663-1699

**Wilmington Regional Office**  
127 Cardinal Drive Extension  
Wilmington, NC 28405  
(910) 796-7215

**Fayetteville Regional Office**  
225 North Green Street, Suite 714  
Fayetteville, NC 28301-5043  
(910) 433-3300

**Raleigh Regional Office**  
3800 Barrett Drive, Suite 101  
Raleigh, NC 27609  
(919) 791-4200

**Winston-Salem Regional Office**  
450 West Hanes Mill Road, Suite 300  
Winston-Salem, NC 27105  
(336) 771-9800

**Washington Regional Office**  
943 Washington Square Mall

NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

*Scott Walston*  
45

COUNTY: ORANGE

B03: SCHOOLS (PRIMARY/SECONDARY)

STATE NUMBER: 15-E-0000-0597

DATE RECEIVED: 04/28/2015

AGENCY RESPONSE: 05/25/2015

REVIEW CLOSED: 05/28/2015

MS CARRIE ATKINSON  
CLEARINGHOUSE COORDINATOR  
DEPT OF TRANSPORTATION  
STATEWIDE PLANNING - MSC #1554  
RALEIGH NC

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DENR LEGISLATIVE AFFAIRS  
DEPT OF CULTURAL RESOURCES  
DEPT OF TRANSPORTATION  
TRIANGLE J COG

**PROJECT INFORMATION**

APPLICANT: Orange County  
TYPE: State Environmental Policy Act  
Scoping

DESC: Proposal is for the re-development/expansion of the Emerson Waldorf private school off of Millhouse Road. (submitted pursuant to Orange County SEPA ordinance)

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.



AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED:  NO COMMENT  COMMENTS ATTACHED

SIGNED BY: *Scott Walston*

DATE: 5/19/15

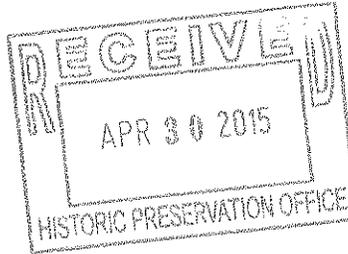


NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL ENVIRONMENTAL REVIEW

COUNTY: ORANGE

B03: SCHOOLS (PRIMARY/SECONDARY)

STATE NUMBER: 15-E-0000-0597  
DATE RECEIVED: 04/28/2015  
AGENCY RESPONSE: 05/25/2015  
REVIEW CLOSED: 05/28/2015



CH 15-0974

Due 5/8/15 A- (NC) DATA 5/7/15

Due 5/19/15 S- (NO) ACK 5/12/15

MS RENEE GLEDHILL-EARLEY  
CLEARINGHOUSE COORDINATOR  
DEPT OF CULTURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
MSC 4617 - ARCHIVES BUILDING  
RALEIGH NC

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AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED:  NO COMMENT  COMMENTS ATTACHED

SIGNED BY: Renee Gledhill-Earley

DATE: 5.18.15



MAY 01 2015

NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

47

COUNTY: ORANGE

B03: SCHOOLS (PRIMARY/SECONDARY)

STATE NUMBER: 15-E-0000-0597  
DATE RECEIVED: 04/28/2015  
AGENCY RESPONSE: 05/25/2015  
REVIEW CLOSED: 05/28/2015

APR 30 2015

MS CAROLYN PENNY  
CLEARINGHOUSE COORDINATOR  
CC&PS - DIV OF EMERGENCY MANAGEMENT  
FLOODPLAIN MANAGEMENT PROGRAM  
MSC # 4719  
RALEIGH NC

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AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED:  NO COMMENT  COMMENTS ATTACHED

SIGNED BY:

John D. Brubaker

DATE: 11 May 2015



Attachment 3
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**FINDINGS OF THE ORANGE COUNTY PLANNING STAFF  
PERTAINING TO A REQUEST SUBMITTED BY  
THE EMERSON WALDORF SCHOOL  
REQUESTING CLASS A SPECIAL USE PERMIT APPROVAL  
FOR THE EXPANSION OF ITS CAMPUS AT 6211 NEW JERICO ROAD (SR 1899)  
(PINS: 9871- 64-7391; 9871-64-5632; 9871-65-8140; 9871-74-3098; and 9871-72-1935)**

As required under Section 5.2 *Table of Permitted Uses* of the Orange County Unified Development Ordinance (UDO), a Class A Special Use Permit is required for the development/expansion of a school. Such permits shall comply with general and specific standards as set forth in Section(s) 5.3.2 and 5.8.4 of the UDO.

Section 5.3.2 (A) (2) of the UDO requires written findings certifying compliance with the following:

- (1) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
- (2) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and
- (3) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners;

In addition, the Board shall make findings certifying that the application is compliant with the following specific standards:

- (1) Specific standards for the submission of Special Use Permit applications as outlined within Section(s) 2.2 and 2.7 of the UDO,
- (2) Section 5.3.2 (B) relating to the method and adequacy of the provision of:
  - a. Sewage disposal facilities,
  - b. The adequacy of police, fire, and rescue squad protection, and
  - c. The adequacy of vehicular access to the site and traffic conditions around the site
- (3) Specific regulations governing the development of school as set forth in Section 5.8.4 of the UDO,
- (4) The general findings outlined within Section 5.3.2 (A) (2).

Listed below are the findings of the Orange Planning staff regarding the application in question. The findings have been presented by Article and requirement to assist the Planning Board in its deliberations.

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>APPLICATION COMPONENTS</b>				
Proper forms	2.2	Application (Attachment 1 of May 26, 2015 quarterly public hearing packet)	Yes	
Fees paid	2.2.4(D)	Staff Testimony/Application	Yes	
Full description of use <ul style="list-style-type: none"> <li>• Location</li> <li>• Appearance</li> <li>• Operational characteristics</li> </ul>	2.7.3(B)(1)	Application	Yes	
Owner Information	2.7.3(B)(2)	Application	Yes	
Information needed for Use Standards	2.7.3(B)(3)	Application and site plan	Yes	
Site Plans (26 for Class A)	2.7.3(B)(4)	Application/Staff Testimony (Site plan)	Yes	
Preliminary Subdivision Plat (if necessary)	2.7.3(B)(5)	[No subdivision proposed.]	N/A	
List of parcels within 500 feet	2.7.3(B)(6)	Application	Yes	
Elevations of all structures	2.7.3(B)(7)	Application and site plan; staff testimony and pictures as part of power point presentation	Yes	
Environmental Assessment (or EIS) <ul style="list-style-type: none"> <li>• Topography</li> <li>• Drainage issues</li> <li>• Natural or Cultural resources</li> <li>• Mining</li> <li>• Hazardous Wastes</li> <li>• Wastewater treatment</li> <li>• Water usage</li> </ul>	2.7.3(B)(8)	Application package including: <ul style="list-style-type: none"> <li>• Biological Inventory completed by The Catena Group;</li> <li>• Forest Stewardship Plan completed by Kelly Douglass;</li> <li>• Impact Analysis completed by Everett 'Vic' Knight</li> <li>• State Clearing House comments (<a href="#">Attachment 2</a> July 1, 2015 Planning Board packet)</li> </ul>	Yes	
Method of Debris Disposal	2.7.3(B)(9)	Application and site plan	Yes	
Development Schedule	2.7.3(B)(10)	Application and site plan	Yes	
Extended Vesting Request	2.7.3(B)(11)	Not requested	N/A	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>NOTIFICATION REQUIREMENTS</b>				
Public Notice <ul style="list-style-type: none"> <li>• Date</li> <li>• Time</li> <li>• Place</li> </ul>	2.7.5(a)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 4) and staff testimony	Yes	
Published in Newspaper <ul style="list-style-type: none"> <li>• Two successive weeks</li> <li>• First notice at least ten days prior but no more than twenty-five days prior</li> </ul>	2.7.5(b)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 4) and staff testimony	Yes	
Sign Posting on Property (at least 10 days prior)	2.7.5(c)	Staff Testimony posted sign on <i>May 14, 2015</i>	Yes	
Mailed Notice <ul style="list-style-type: none"> <li>• Certified mail</li> <li>• All adjacent property owners (within 500 ft.)</li> <li>• Not less than fifteen days prior</li> </ul>	2.7.5(d)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 4) and staff testimony	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>SPECIFIC STANDARDS</b>				
<b>Waste Disposal</b> Method and adequacy of provision for sewage disposal facilities, solid waste and water service.	5.3.2(B)(1)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 3) and staff testimony.  Both Environmental Health and Solid Waste have indicated they have no concerns.  Conditions are recommended to require Solid Waste Permit as part of development process.	Yes	
<b>Safety</b> Method and adequacy of police, fire and rescue squad protection.	5.3.2(B)(2)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 3) and staff testimony.  Orange County Emergency Service staff and the Sheriff's office have indicated the project can be served.	Yes	
<b>Vehicle Access</b> Method and adequacy of vehicle access to the site and traffic conditions around the site.	5.3.2(B)(3)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 3), Transportation Impact Analysis (TIA) completed by SEPI Engineering, and staff testimony.  There will not be an appreciable traffic increase in the area associated with the expansion of the school.	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>STANDARDS for Schools (Elementary, Middle and Secondary)</b>				
<b>Site Plan</b> A site plan prepared in accordance with Section 2.5 of and 5.8.4 of UDO	5.8.4 (A) (1)	Application, Applicant Testimony, Staff Testimony, and Site plan	Yes	
<b>Standards of Evaluation</b>				
Project meets applicable design standards of UDO	5.8.4 (A) (3) (a)	Application, Applicant Testimony, Staff Testimony, and Site plan	Yes	
Project meets service provision criteria: <ol style="list-style-type: none"> <li>i. Identifies primary and secondary police (public service), rescue services, and fire responders ,</li> <li>ii. Identifies sources of water for use by fire fighters,</li> <li>iii. Identifies water source and wastewater treatment method</li> <li>iv. Identifies process for removal of solid waste</li> </ol>	5.8.4 (A) (3) (b)	Application, Applicant Testimony, Staff Testimony (Attachment 3 of quarterly public hearing packet), and Site plan	Yes	
Completion of biological inventory (identification of habitats)	5.8.4 (A) (3) (c)	Application, Applicant Testimony, Staff Testimony and <ul style="list-style-type: none"> <li>• Biological Inventory completed by The Catena Group;</li> <li>• Forest Stewardship Plan completed by Kelly Douglass;</li> <li>• State Clearing House comments (<u>Attachment 2</u> July 1, 2015 Planning Board packet)</li> </ul>	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>STANDARDS for Schools (Elementary, Middle and Secondary) – continued</b>				
Landscaping and buffers (protection of existing vegetation, tree protection measures, etc.)	5.8.4 (A) (3) (d)	Application, Applicant Testimony, Staff Testimony and <ul style="list-style-type: none"> <li>• Biological Inventory completed by The Catena Group;</li> <li>• Forest Stewardship Plan completed by Kelly Douglass;</li> <li>• State Clearing House comments (<u>Attachment 2</u> July 1, 2015 Planning Board packet)</li> </ul>	Yes	
Stormwater management and drainage plan	5.8.4 (A) (3) (e) and (f) inclusive	Application, Applicant Testimony, Staff Testimony (Attachment 3 of quarterly public hearing packet), and Site plan  A recommended condition of approval is that as new development is approved for the site the applicant will have to submit the formal stormwater management plan for approval by Orange County.	Yes	
Grading and erosion control	5.8.4 (A) (3) (g)	Application, Applicant Testimony, Staff Testimony (Attachment 3 of quarterly public hearing packet), and Site plan  A recommended condition of approval is that as new development is approved for the site the applicant will have to submit formal erosion control plans for approval by Orange County.	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>STANDARDS for Schools (Elementary, Middle and Secondary) – continued</b>				
Solid Waste Management	5.8.4 (A) (3) (h)	Application, Applicant Testimony, Staff Testimony (Attachment 3 of quarterly public hearing packet), and Site plan  A recommended condition of approval is as new site plans are submitted the applicant will submit the formal solid waste management plan for approval by Orange County Solid Waste.	Yes	
Irrigation	5.8.4 (A) (3) (i)	Application and site plan	Yes	
Habitat Maintenance	5.8.4 (A) (3) (j)	Application and site plan	Yes	
Public Road Access	5.8.4 (A) (3) (k)	Application and site plan; Transportation Impact Analysis (TIA) completed by SEPI Engineering	Yes	
Maintenance of Improvements	5.8.4 (A) (3) (l)	Application and site plan	Yes	
<p>Additional Standards</p> <ul style="list-style-type: none"> <li>i. Minimum lot size consistent with adopted County school construction standards.</li> <li>ii. Lot size shall be adequate to accommodate all activities.</li> <li>iii. Negative visual impacts shall be minimized along major roadways.</li> <li>iv. Required transportation improvements are installed.</li> <li>v. Site designed for multiple shared use opportunities.</li> <li>vi. Site access</li> </ul>	5.8.4 (A) (3) (m)	<p>Application package including:</p> <ul style="list-style-type: none"> <li>• Biological Inventory completed by The Catena Group;</li> <li>• Forest Stewardship Plan completed by Kelly Douglass;</li> <li>• Impact Analysis completed by Everett 'Vic' Knight</li> <li>• Transportation Impact Analysis (TIA) completed by SEPI Engineering</li> <li>• State Clearing House comments (<u>Attachment 2</u> July 1, 2015 Planning Board packet)</li> </ul> <p>Applicant and staff testimony.</p>	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>SPECIFIC STANDARDS</b>				
In accordance with Section 5.3.2 (A) (2), the Planning Board shall also consider the following general conditions before the application for a Special Use can be approved.				
<b>NOTE:</b> Planning Staff does not provide a recommendation on these items as the Board is expected to provide a recommendation based on the sworn testimony provided at the hearing. Staff is providing a brief synopsis of the information contained within the submittal the applicant argues demonstrates compliance for reference purposes only.				
The use <b>(will / will not)</b> maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.	Section 5.3.2 (A) (2) (a)	Application package and testimony including: <ul style="list-style-type: none"> <li>• Biological Inventory completed by The Catena Group;</li> <li>• Forest Stewardship Plan completed by Kelly Douglass;</li> <li>• Impact Analysis completed by Everett 'Vic' Knight</li> <li>• Transportation Impact Analysis (TIA) completed by SEPI Engineering</li> <li>• State Clearing House comments (<u>Attachment 2</u> July 1, 2015 Planning Board packet)</li> </ul> Staff testimony and abstract package from May 26, 2015 quarterly public hearing.		
The use <b>(will / will not)</b> maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).	Section 5.3.2 (A) (2) (b)	Application package and testimony including: <ul style="list-style-type: none"> <li>• Impact Analysis completed by Everett 'Vic' Knight</li> </ul> Staff testimony and abstract package from May 26, 2015 quarterly public hearing.		

<p>The location and character of the use, if developed according to the plan submitted, <b>(will / will not)</b> be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.</p>	<p>Section 5.3.2 (A) (2) (c)</p>	<p>Application package and testimony including:</p> <ul style="list-style-type: none"> <li>• Biological Inventory completed by The Catena Group;</li> <li>• Forest Stewardship Plan completed by Kelly Douglass;</li> <li>• Impact Analysis completed by Everett 'Vic' Knight</li> <li>• Transportation Impact Analysis (TIA) completed by SEPI Engineering</li> <li>• State Clearing House comments (<u>Attachment 2</u> July 1, 2015 Planning Board packet)</li> </ul> <p>Staff testimony and abstract package from May 26, 2015 quarterly public hearing.</p>		
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## RECOMMENDATION:

Staff has not received any comments from local residents and property owners indicating they do not believe the proposed facility complies with the provisions of Section 5.3.2 (A) (2) inclusive. These standards include maintaining or promoting the public health, safety, and general welfare, maintaining or enhancing the value of contiguous property, the use is in harmony with the area in which it is to be located, and the use being in compliance with the general plan for the physical development of the County.

Staff has reviewed the application, the site plan, and all supporting documentation and has found that the applicant **complies** with the specific standards and required regulations as outlined within the UDO with respect to the submittal of required information for the project.

Provided the Planning Board finds in the affirmative on the specific and general standards as detailed herein, and no evidence is entered into the record demonstrating the applicant has either:

- a. Failed to meet their burden of proof that the project complies with the specific development standards for a school, or
- b. Fails to comply with the general standards detailed within Section 5.3.2 (A) (2)

of the UDO, the Board could make an affirmative recommendation on this application to the BOCC.

In the event that the Board makes an affirmative finding, staff recommends the attachment of the following conditions:

1. That the school be limited to serving 350 students as proposed by the applicant within the Special Use Permit application.
2. The granting of this Special Use Permit does not confer onto the applicant authorization to commence construction/land disturbance activities. No land disturbance activity shall commence until all applicable approvals, as detailed within the Unified Development Ordinance, have been obtained.
3. The submittal of a Solid Waste Permit application shall be required for every individual development project associated with this project.
4. Existing vegetation shall be preserved and remain in an undisturbed state in general conformance with Sheet(s) C4, C5, and C6 of the approved site plan, as appropriately adjusted pursuant to Site Plan review for individual construction phases.
5. That the Fire Marshal and representatives of the New Hope Volunteer Fire Department shall review and approve the floor plan of proposed new buildings prior to the issuance of any Building and/or Zoning Compliance Permit(s) approving construction verifying that the structures comply with all applicable NC Fire Protection Code standards.
6. The applicant shall install required wastewater treatment system improvements necessary to support approved expansion projects prior to the commencement of earth disturbing activities. Further, the school is required to supply Planning and Environmental Health staff with any and all permits issued by the State of North Carolina allowing for the operation/modification of the system.
7. That an annual inspection of the wastewater treatment facility shall be conducted by the Orange County Health Department, consistent with established Departmental policy, in order to ensure that the system is functioning within established parameters. The

applicant shall bear the burden of paying all fees associated with this inspection of the wastewater treatment facility as imposed by the Health Department.

8. That the applicant secure any necessary Soil Erosion and Grading, Stormwater, or other similar permit(s) from the Orange County Erosion Control Division, prior to any land disturbing activity occurring as part of the approved site plan.
9. That the applicant adhere to any conditions that may be imposed by North Carolina Department of Transportation in accordance with the driveway permit for this project.
10. That the provision of outdoor sports field lighting shall be deemed a SUP modification requiring the applicant to apply for a new Class A Special Use Permit as detailed within the UDO.
11. Development proposals shall be submitted to the North Carolina Division of Fish and Wildlife for review comment as part of the site plan review process of the County to ensure no endangered species are impacted.
12. The Special Use Permit will automatically expire in 12 months from the date of approval if the use has not commenced or construction has not commenced or proceeded unless a timely application for extension of this time limit is approved by the Board of Adjustment.
13. If any condition of this Special Use Permit shall be held invalid or void, then this Special Use Permit shall be void in its entirety and of no effect.

**ORANGE COUNTY  
PLANNING BOARD  
ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: July 1, 2015

**Action Agenda  
Item No. 8**

**SUBJECT:** Class A Special Use Permit – Solar Array off White Cross Road in Bingham Township

**DEPARTMENT:** Planning and Inspections

**PUBLIC HEARING:** (Y/N)

Yes

**ATTACHMENTS:**

1. Vicinity Map
2. Additional Correspondence/Evidence Submitted since May 26, 2015 Public Hearing
3. Special Use Permit Findings of Fact

**INFORMATION CONTACT:**

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

**Under Separate Cover** – Full Scale Copy of Revised Site Plan

**PURPOSE:** To complete review of, and make a recommendation on, a Class A Special Use Permit (hereafter ‘SUP’) application 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).

As a reminder the review of this item is carried out in a *quasi-judicial* format. Decisions relating to the approval or denial of SUP applications are based solely on the sworn testimony of all parties involved with the case, both those for and against, as well as the review of competent material and substantial evidence submitted during the public hearing. Hearsay or unsubstantiated opinions are not sufficient testimony.

**CADENCE OF REVIEW:** The review of a SUP is as follows:

- **STEP ONE – NEIGHBORHOOD INFORMATION MEETING (NIM):** The first step in the review of an SUP application is a holding of a NIM to allow the applicant to meet with local property owners to review the project.

*STAFF COMMENT:* The required NIM was held on April 9, 2015 from 5:30 p.m. to 7:30 p.m. in accordance with the UDO. The applicant held a second neighborhood meeting on Thursday May 7, 2015 at the White Cross Recreation Center.

- **STEP TWO – PUBLIC HEARING:** The next step in the review of an SUP application is the holding of a public hearing to allow the applicant and other interested parties to provide sworn testimony related to the proposal.

*STAFF COMMENT:* The required public hearing was held at the May 26, 2015 Quarterly Public Hearing where the following testimony/evidence was entered into the record:

- i. Staff abstract and attachments, including the actual SUP application, Master Plan site plan, staff comments on the project, and copies of the UDO and Comprehensive Plan.
- ii. Staff testimony on the project and its compliance with various provisions of the UDO.
- iii. Applicant sworn testimony from Mrs. Beth Trahos, Mr. George Retschle, Mr. Thomas Hester, Mr. Richard Kirkland, Mr. Richard Moretz, and Mr. Thomas Cleveland, on how the project complied with the UDO.

The applicant entered copies of affidavits and a real estate report, completed by Mr. Hester, into the record providing additional information on the project's compliance with applicable standards.

The applicant further testified they had been working to address an adjacent property owner's questions and concerns as they relate to the preservation of existing vegetation along a common property line.

During the hearing the applicant testified a private agreement had been made with the adjacent property owner to the north for an additional buffer width of 15' and the provision for an undisturbed area along the common property line.

It should be noted this will become a requirement if the SUP is approved.

- iv. Comments from the BOCC, Planning Board, and the general public.
- **STEP THREE – PLANNING BOARD REVIEW:** The Planning Board reviews the request and makes a recommendation on the project's compliance with specific development standards (Section 5.9.6) and the general standards (Section 5.3.2 *Special Uses*) of the UDO. Staff prepares a script to aid the Board in making required findings and denoting the 'evidence' utilized in rendering a decision as contained in Attachment 3.

*STAFF COMMENT:* This review will begin at the July 1, 2015 regular meeting where the Board will be asked to make a recommendation.

- **STEP FOUR – DECISION:** The BOCC will receive the Planning Board recommendation as well as any other written evidence, deliberate, certify the record, close the public hearing, and then render a final decision.

**BACKGROUND:** This item was presented at the May 26, 2015 Quarterly Public Hearing where staff indicated the applicant is proposing to develop a solar facility on a 20 acre portion of the subject property with the remaining 15 acres being retained by the current property owner.

Proposed individual arrays shall be approximately 7 to 9 feet in height, with approximately 2 to 3 feet of ground clearance, and 47 feet in length. Approximately 20 acres of the site will be initially disturbed with 11.5 acres containing the actual solar facility. A 6 foot high chain link security fence, topped with 3 strand barbed wire, shall enclose the perimeter of the array to prevent access and the array shall be surrounded by a Type D 50 foot wide landscaped buffer.

There shall be no business or other occupied office located on the property and vehicular access is off of White Cross Road and shall be restricted via a 24 foot access gate.

Agenda materials from the Quarterly Public Hearing can be viewed at: <http://www.orangecountync.gov/150526QPHKC.pdf>

During the hearing, the following comments/questions were posed concerning the application:

- Several BOCC members requested clarification on the proposed land use buffer modifications:

*RESPONSE:* The applicant indicated there would be an additional 15 feet of buffer width along the northern property line. This would include the preservation of approximately 20 ft. of the exterior of the proposed land use buffer.

- A Planning Board member asked the applicant to clarify testimony related to the fiscal impact analysis. Specifically to review the methodology used in determining how the project would 'maintain or enhance' the value of contiguous property.

*RESPONSE:* Mr. Thomas Hester outlined the methodology and indicated his report even provided an assessment of existing property values near a previously constructed solar facility within Orange County.

Mr. Hester indicated it was his professional opinion there was no evidence indicating the development of this facility would impact adjacent property value.

- There were general comments from the BOCC and Planning Board members over the construction of solar facilities in Orange County.

It should be noted no one from the public spoke at the hearing.

Analysis: As required under Section 2.7.4 of the UDO, the Planning Director is required to: '*cause an analysis to be made of the application*' and pass that analysis on to the reviewing body. In analyzing this request, the Planning Director offers the following:

- a. Application submittal requirements detailed within Section 2.7 of the UDO have been satisfied.
- b. The applicant has demonstrated compliance with respect to landscaping and buffering requirements as detailed within Section 6.8 of the UDO.
- c. Staff has made the determination that a formal Environmental Impact Statement would not be required per Section 6.16 of the UDO.
- d. The applicant has complied with specific development standards associated with the development of a solar facility as detailed within Section 5.9.6 (C) of the UDO.
- e. Comments received from various County agencies (i.e. Sheriff, Fire Marshal, DEAPR, Orange County Health) indicate there are no concerns associated with the request.

Please refer to Attachment 3 of the May 26, 2015 Quarterly Public Hearing packet for additional information.

- f. Staff finds the proposal is consistent with the various goals outlined within the Comprehensive Plan concerning development, including:

- a. Natural and Cultural Systems Goal 1: Energy conservation, sustainable use of non-polluting renewable energy resources, efficient use of non-renewable energy resources and clean air.
- b. Objective AE-15: Foster participation in green energy programs such as installation incentives for solar hot water/solar generation/solar tempering in residential or commercial construction. The County should develop programs that will link citizens and businesses with options for alternative and sustainable energy sources.
- c. Objective AG-8: Encourage the use and production of natural fuel alternatives to petroleum based products and pursue new types of energy sources.

**Planning Director's Recommendation:** In accordance with the provisions of Section 2.7.4 of the UDO, the Planning Director recommends **approval** of the application subject to:

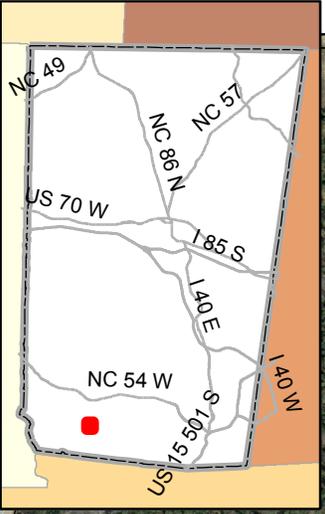
- Approval of the recommended Findings of Fact as detailed within Attachment 3,
- The imposition of the recommended conditions detailed within Attachment 3, and
- The Planning Board's and BOCC's ability to make an affirmative finding on the general standards outlined within Section 5.3.2 of the UDO.

**Public Hearing Procedural Information:** In accordance with Section 2.7.8 (A) (3) of the UDO, the BOCC has requested that the Planning Board recommendation be made available in time for the September 1, 2015 BOCC regular meeting. As a procedural note, additional comments on the application must be submitted in writing to the Planning Board in order to become part of the official record of these proceedings.

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

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

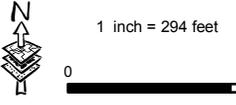
1. Deliberate as necessary,
2. Review the Findings of Fact and Conditions of Approval as contained in Attachment 3,
3. If deemed necessary, suggest additional conditions or modifications to the site plan, and
4. Make an affirmative recommendation to the BOCC regarding the Findings of Fact and Conditions of Approval as detailed within Attachment 3 in time for the BOCC's September 1, 2015 regular meeting.



PIN#: 9748320786  
 CAROL B BYRON  
 WILLIAM J BYRON  
 1606 WHITE CROSS RD  
 CHAPEL HILL, NC 27516



1 inch = 294 feet



Orange County Planning and Inspections Department  
 05/11/2015



## North Carolina Department of Administration

Pat McCrory, Governor

Bill Daughtridge, Jr., Secretary

June 1, 2015

Mr. Mike Harvey  
Orange County  
Orange County Planning & Inspections Department  
Post Office Box 8181  
Hillsborough, North Carolina 27278

**Re: SCH File # 15-E-0000-0596; EA; Proposal is for the development of a solar facility on a 35.8 acre parcel located at 1606 White Cross Road (submitted pursuant to Orange County SEPA ordinance)**

Dear Mr. Harvey:

The above referenced environmental impact information has been reviewed through the State Clearinghouse under the provisions of the North Carolina Environmental Policy Act.

Attached to this letter are comments made in the review of this document. Because of the nature of the comments, it has been determined that no further State Clearinghouse review action on your part is needed for compliance with the North Carolina Environmental Policy Act. The attached comments should be taken into consideration in project development.

Sincerely,

A handwritten signature in cursive script that reads "Crystal Best".

Crystal Best  
State Environmental Review Clearinghouse

Attachments

cc: Region J

**Mailing Address:**  
1301 Mail Service Center  
Raleigh, NC 27699-1301

**Telephone:** (919)807-2425  
Fax (919)733-9571  
State Courier #51-01-00  
e-mail [state.clearinghouse@doa.nc.gov](mailto:state.clearinghouse@doa.nc.gov)

**Location Address:**  
116 West Jones Street  
Raleigh, North Carolina



## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

## MEMORANDUM

To: Crystal Best  
State Clearinghouse

From: Lyn Hardison   
Division of Environmental Assistance and Customer Service  
Environmental Assistance and Project Review Coordinator

RE: 15-0596  
Scoping – Proposal is for the development of a solar facility on 35.8 parcel located at 1606 White Cross Road (submitted pursuant to Orange County SEPA ordinance)  
Orange County

Date: May 29, 2015

The Department of Environment and Natural Resources has completed its review of the proposal for the referenced project. Based on the information provided, several of our agencies have identified permits that may be required. The agencies have offered some valuable guidance to be performed prior to application submittals and ground disturbance which will help to minimize impacts to the natural resources, aquatic and terrestrial wildlife resources within and around the project area. The comments are attached for the applicant's review.

If the applicant has any questions pertaining to NCDENR permitting processes, please suggest to the applicant to contact David Lee, Permit Assistance Coordinator, in the Department's Raleigh Regional Office, (919)791-4200 for more permitting assistance. The proposed project is located within his geographic working territory.

Thank you for the opportunity to respond.

Attachments



## ◇ North Carolina Wildlife Resources Commission ◇

Gordon Myers, Executive Director

### MEMORANDUM

TO: Lyn Hardison, Environmental Assistance and SEPA Coordinator  
NCDENR Division of Environmental Assistance and Customer Services

FROM: Shari L. Bryant, Western Piedmont Coordinator *Shari L. Bryant*  
Habitat Conservation

DATE: 27 May 2015

SUBJECT: Request for Review of Development Application for Solar Facility Located Off White Cross Road, Orange County. DENR Project No. 15-0596

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) have reviewed the subject document and we are familiar with the habitat values of the area. Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667e), and North Carolina General Statutes (G.S. 113-131 et seq.).

White Cross Solar, LLC proposes to construct a solar array on a 35.8 acre parcel on White Cross Road. The facility will include photovoltaic cells mounted on posts and two gravel parking spaces. The facility will be fenced and areas beneath the solar panels will be planted with grass or alfalfa. Erosion control measures and environmental buffers will be maintained and the site will comply with County stormwater regulations. Utility and transmission lines will be placed underground to the extent feasible. Electricity generated by the facility will to be sold to Duke Energy.

Wildcat Branch, a tributary to Collins Creek in the Cape Fear River basin flows along the eastern boundary of the site. In addition, there is a wetland located adjacent to the stream channel. The southern portion of the site drains to Terrells (Ferrells) Creek. There are records for the federal species of concern and state endangered brook floater (*Alasmidonta varicosa*) in Collins Creek. According to Sheet C1001, the site is primarily forested, and a minimum 65-foot riparian buffer will be maintained along the stream.

The U.S. Fish and Wildlife Service recently listed the Northern long-eared bat (*Myotis septentrionalis*) as threatened under the Endangered Species Act. The Northern long-eared bat may be present within or in the vicinity of the project site. Therefore, the project may impact this species and consultation with the U.S. Fish and Wildlife Service may be required. For more information, please see <http://www.fws.gov/midwest/endangered/mammals/nleb/Interim4dRuleKeyNLEB.html> or contact the U.S. Fish and Wildlife Service at (919) 856-4520 to ensure that any issues related to this species are addressed.

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**Mailing Address:** Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721  
**Telephone:** (919) 707-0220 • **Fax:** (919) 707-0028

Page 2

27 May 2015  
White Cross Road Solar Facility  
DENR Project No. 15-0596

We offer the following general recommendations to minimize impacts to aquatic and terrestrial wildlife resources.

1. Wetlands and streams within the site boundaries should be identified through on-site surveys prior to any land disturbing activities. If wetlands and/or streams will be impacted by construction activities, then the project should be coordinated with the U.S. Army Corps of Engineers and the N.C. Division of Water Resources.
2. Maintain or establish a minimum 100-foot undisturbed, native forested buffer along each side of perennial streams and 50-foot undisturbed, native forested buffer along each side of intermittent streams and wetlands. Forested riparian buffers provide habitat areas for aquatic and terrestrial wildlife species and travel corridors for terrestrial wildlife. In addition, forested riparian buffers protect water quality by stabilizing stream banks and filtering stormwater runoff.
3. Avoid or minimize impacts to wetlands during construction. In addition to providing wildlife habitat, wetland areas perform important functions of flood control and water quality protection. Temporarily disturbed wetland areas should be returned to original soils and contours, and reseeded with annual small grains appropriate for the season (e.g. oats, millet, rye, or wheat) and should be allowed to revert to natural wetland vegetation.
4. If additional overhead transmission lines will be installed, then measures to minimize impacts to birds should be implemented. These can include increasing line visibility, insulating wires to cover exposed connections, and increasing the distance between wires so no contact with ground or other energized wire can be made. For more information see <http://www.fws.gov/birds/documents/powerlines.pdf>.
5. Consider establishing vegetative cover on the site that is beneficial to wildlife such as native warm season grasses. We refer the applicant to Jason Allen, District Wildlife Biologist, at (336) 524-9801 or [jason.allen@ncwildlife.org](mailto:jason.allen@ncwildlife.org) for information on developing a site-specific vegetation plan.
6. If pesticides or chemicals will be used for site maintenance, then stormwater runoff from the site should be directed to bio-retention areas prior to discharge to streams or wetlands to provide additional protection for water quality and aquatic and terrestrial wildlife habitats.
7. Sediment and erosion control measures should be installed prior to any land clearing or construction. The use of biodegradable and wildlife-friendly sediment and erosion control devices is strongly recommended. Silt fencing, fiber rolls and/or other products should have loose-weave netting that is made of natural fiber materials with movable joints between the vertical and horizontal twines. Silt fencing that has been reinforced with plastic or metal mesh should be avoided as it impedes the movement of terrestrial wildlife species. These measures should be routinely inspected and properly maintained. Excessive silt and sediment loads can have numerous detrimental effects on aquatic resources including destruction of spawning habitat, suffocation of eggs, and clogging of gills of aquatic species.

Thank you for the opportunity to comment on this project. If we can be of further assistance, please contact our office at (336) 449-7625 or [shari.bryant@ncwildlife.org](mailto:shari.bryant@ncwildlife.org).

cc: Kathy Matthews, USFWS  
Jason Allen, NCWRC



## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

Date: May 22, 2015

To: Linda Culpepper, Director  
Division of Waste Management

Through: Jim Bateson, Superfund Section Chief 

From: Pete Doorn, Special Remediation Branch Head 

Subject: SEPA Project #15-0596, Proposed Construction of a Solar Array-Public Utility,  
Orange County, North Carolina

The Superfund Section has reviewed the proximity of CERCLIS and other sites under their jurisdiction to the proposed site of a solar array-public utility in Orange County. The proposed project involves the construction of a solar energy facility on a 35.8 acre parcel of property at 1606 White Cross Road in Orange County.

No sites were identified within a 1-mile radius of the proposed project. Please contact me at 919.707.8369 if you have any questions.



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

**MEMORANDUM**

DATE: May 13, 2015

TO: Linda Culpepper, Division Director through Kathleen Lance

FROM: Deb Aja, Western District Supervisor - Solid Waste Section

RE: SEPA Review Project #15-0596, Orange County, N.C.  
White Cross Solar, LLC Solar Facility

Digitally signed by  
Deborah Aja  
DN: cn=Deborah Aja,  
o=Solid Waste Section,  
ou,  
email=deborah.aja@ncdenr.  
nc.gov, cn=US  
Date: 2015.05.13  
15:20:59 -0400

The Solid Waste Section has reviewed the Environmental Review document for the proposed solar array public utility on a 35.8 acre parcel of property off of White Cross Road in Orange County, North Carolina. The review has been completed and has seen no adverse impact on the surrounding community and likewise knows of no situations in the community, which would affect this project from a solid waste perspective.

During construction, the applicant should make every feasible effort to minimize the generation of waste, to recycle materials for which viable markets exist, and to use recycled products and materials in the development of this project where suitable. Any waste generated by this project that cannot be beneficially reused or recycled must be disposed of at a solid waste management facility approved to manage the respective waste type. The Section strongly recommends that any contractors are required to provide proof of proper disposal for all waste generated as part of the project. The nearest permitted facilities to the project are the Orange County C&D Landfill, Chapel Hill, the Waste Management - Chatham County Transfer Station, Siler City, the Stone Court Park Transfer Station, Durham, and the City of Durham Transfer Station, Durham, North Carolina. Additional solid waste facility information for solid waste facilities may be found on the Solid Waste Section portal site at: <http://portal.ncdenr.org/web/wm/sw/facilitylist>.

Please contact Mr. John Patrone, Environmental Senior Specialist, for with any questions regarding solid waste management. Mr. Patrone may be reached at (336)-776-9673.

Cc: Jason Watkins, Field Operations Branch Head  
John Patrone, Environmental Senior Specialist  
Sarah Rice, Compliance Officer  
Dennis Shackelford, Eastern District Supervisor



## North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

May 22, 2015

To: Linda Culpepper, Director  
Division of Waste Management

From: Jenny Patterson, Eastern Region Supervisor, Compliance Branch *Jenny Patterson*  
Hazardous Waste Section

Subject: Hazardous Waste Section Comments on White Cross Solar Array Construction (Orange County)  
Project Number: 15-0596

The Hazardous Waste Section (HWS) has reviewed the subject Scoping Request for the proposed project which consists of the development of a solar facility on a 35.8 acre parcel located at 1606 White Cross Road in Chapel Hill, NC in Orange County.

Any hazardous waste generated from the construction, maintenance, and/or remediation (e.g. excavated soil) from the proposed project must be managed in accordance with the North Carolina Hazardous Waste Rules. The construction, maintenance, and remediation activities conducted will most likely generate a solid waste, and the facility must determine if the waste is a hazardous waste. If the project site generates more than 220 pounds of hazardous waste in a calendar month, the HWS must be notified, and the site must comply with the small quantity generator requirements. If a project site generates more than 2200 pounds of hazardous waste in a calendar month, the HWS must be notified, and the facility must comply with the large quantity generator requirements.

The proposed project site does not currently have an EPA Identification number for hazardous waste generation assigned to the property. There are no active hazardous waste generators located within 2000 feet of the proposed project area in Chapel Hill, NC.

This review does not preclude the possibility of historical waste management activities at this site that may have contributed to contamination unknown to this office.

Should any questions arise, please contact me at 336-767-0031.



## North Carolina Department of Environment and Natural Resources

Pat McCrory  
GovernorDonald R. van der Vaart  
Secretary

May 26, 2015

**MEMORANDUM**

**TO:** Lyn Hardison, Environmental Assistance Coordinator  
Department of Environment and Natural Resources

**FROM:** Harold Brady, SEPA Review Coordinator

**SUBJECT:** Scoping –Proposed White Cross Road Solar Facility  
DENR# 15-0596

Thank you for providing the Division of Water Resources (DWR) an opportunity to provide comments regarding the proposed development of a solar facility on a 35.8-acre parcel located at 1606 White Cross Road in Orange County. Scoping conducted pursuant to Orange County SEPA ordinance.

DWR has no objection to the proposed project, but offer the following comments from Danny Smith ((919) 791-4252) of the Raleigh Regional Office:

1. A project that disturbs 1 acre or greater is required to secure an erosion and sedimentation control plan and must comply with construction stormwater permit conditions (NCG010000).
2. The project is in the Cape Fear basin (tributary to Wildcat Branch Water Supply IV- NSW).
3. If stream, wetland or riparian buffer impacts are proposed, this project will need to comply with/secure a 404 permit from the USACE, obtain a 401 Water Quality Certification and/or secure a riparian buffer authorization. Project is within the Jordan Lake Watershed and will need to comply with Jordan Lake buffer rules if impacts to buffers occur.

If you have any questions about this comment, please contact me at (919) 707-9005 or [harold.m.brady@ncdenr.gov](mailto:harold.m.brady@ncdenr.gov). Thank you.

~~INTERGOVERNMENTAL REVIEW - PROJECT COMMENTS~~ Project Number 15-0596 Due Date: 5/25/2015  
 County ORANGE

After review of this project it has been determined that the ENR permit(s) and/or approvals indicated may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these permits should be addressed to the Regional Office indicated on the reverse of the form. All applications, information and guidelines relative to these plans and permits are available from the same Regional Office.

	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
<input type="checkbox"/>	Permit to construct & operate wastewater treatment facilities, sewer system extensions & sewer systems not discharging into state surface waters.	Application 90 days before begin construction or award of construction contracts. On-site inspection. Post-application technical conference usual.	30 days (90 days)
<input type="checkbox"/>	NPDES - permit to discharge into surface water and/or permit to operate and construct wastewater facilities discharging into state surface waters.	Application 180 days before begin activity. On-site inspection. Pre-application conference usual. Additionally, obtain permit to construct wastewater treatment facility-granted after NPDES. Reply time, 30 days after receipt of plans or issue of NPDES permit-whichever is later.	90-120 days (N/A)
<input type="checkbox"/>	Water Use Permit	Pre-application technical conference usually necessary	30 days (N/A)
<input type="checkbox"/>	Well Construction Permit	Complete application must be received and permit issued prior to the installation of a well.	7 days (15 days)
<input type="checkbox"/>	Dredge and Fill Permit	Application copy must be served on each adjacent riparian property owner. On-site inspection. Pre-application conference usual. Filling may require Easement to Fill from N.C. Department of Administration and Federal Dredge and Fill Permit.	55 days (90 days)
<input type="checkbox"/>	Permit to construct & operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100 thru 2Q.0300)	Application must be submitted and permit received prior to construction and operation of the source. If a permit is required in an area without local zoning, then there are additional requirements and timelines (2Q.0113).	90 days
<input type="checkbox"/>	Permit to construct & operate Transportation Facility as per 15A NCAC (2D.0800, 2Q.060)	Application must be submitted at least 90 days prior to construction or modification of the source.	90 days
<input checked="" type="checkbox"/>	Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900	N/A	60 days (90 days)
<input checked="" type="checkbox"/>	Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 20.1110 (a) (1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-707-5950.		
<input type="checkbox"/>	Complex Source Permit required under 15 A NCAC 2D.0800		
<input type="checkbox"/>	The Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion & sedimentation control plan will be required if one or more acres to be disturbed. Plan filed with proper Regional Office (Land Quality Section) At least 30 days before beginning activity. A fee of \$65 for the first acre or any part of an acre. An express review option is available with additional fees.		20 days (30 days)
<input type="checkbox"/>	Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable stormwater conveyances and outlets.		(30 days)
<input type="checkbox"/>	Mining Permit	On-site inspection usual. Surety bond filed with ENR Bond amount varies with type mine and number of acres of affected land. Any are mined greater than one acre must be permitted. The appropriate bond must be received before the permit can be issued.	30 days (60 days)
<input type="checkbox"/>	North Carolina Burning permit	On-site inspection by N.C. Division Forest Resources if permit exceeds 4 days	1 day (N/A)
<input type="checkbox"/>	Special Ground Clearance Burning Permit - 22 counties in coastal N.C. with organic soils	On-site inspection by N.C. Division Forest Resources required "if more than five acres of ground clearing activities are involved. Inspections should be requested at least ten days before actual bum is planned."	1 day (N/A)
<input type="checkbox"/>	Oil Refining Facilities	N/A	90-120 days (N/A)
<input type="checkbox"/>	Dam Safety Permit	If permit required, application 60 days before begin construction. Applicant must hire N.C. qualified engineer to: prepare plans, inspect construction, certify construction is according to ENR approved plans. May also require permit under mosquito control program. And a 404 permit from Corps of Engineers. An inspection of site is necessary to verify Hazard Classification. A minimum fee of \$200.00 must accompany the application. An additional processing fee based on a percentage of the total project cost will be required upon completion.	30 days (60 days)

County <u>ORANGE</u>		Project Number: <u>15-0596</u>	Due Date: <u>5/25/2015</u>	Normal Process Time (statutory time limit)
PERMITS		SPECIAL APPLICATION PROCEDURES or REQUIREMENTS		
<input type="checkbox"/>	Permit to drill exploratory oil or gas well	File surety bond of \$5,000 with ENR running to State of NC conditional that any well opened by drill operator shall, upon abandonment, be plugged according to ENR rules and regulations.		10 days N/A
<input type="checkbox"/>	Geophysical Exploration Permit	Application filed with ENR at least 10 days prior to issue of permit. Application by letter. No standard application form.		10 days N/A
<input type="checkbox"/>	State Lakes Construction Permit	Application fee based on structure size is charged. Must include descriptions & drawings of structure & proof of ownership of riparian property.		15-20 days N/A
<input type="checkbox"/>	401 Water Quality Certification	N/A		60 days (130 days)
<input type="checkbox"/>	CAMA Permit for MAJOR development	\$250.00 fee must accompany application		55 days (150 days)
<input type="checkbox"/>	CAMA Permit for MINOR development	\$50.00 fee must accompany application		22 days (25 days)
<input type="checkbox"/>	Several geodetic monuments are located in or near the project area. If any monument needs to be moved or destroyed, please notify: N.C. Geodetic Survey, Box 27687 Raleigh, NC 27611			
<input checked="" type="checkbox"/>	Abandonment of any wells, if required must be in accordance with Title 15A, Subchapter 2C.0100.			
<input checked="" type="checkbox"/>	Notification of the proper regional office is requested if "orphan" underground storage tanks (USTS) are discovered during any excavation operation.			
<input type="checkbox"/>	Compliance with 15A NCAC 2H 1000 (Coastal Stormwater Rules) is required.			45 days (N/A)
<input type="checkbox"/>	Catawba, Jordan Lake, Randalman, Tar Pamlico or Neuse Riparian Buffer Rules required.			
<input type="checkbox"/>	Plans and specifications for the construction, expansion, or alteration of a public water system must be approved by the Division of Water Resources/Public Water Supply Section prior to the award of a contract or the initiation of construction as per 15A NCAC 18C .0300 et. seq. Plans and specifications should be submitted to 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. All public water supply systems must comply with state and federal drinking water monitoring requirements. For more information, contact the Public Water Supply Section, (919) 707-9100.			30 days
<input type="checkbox"/>	If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Water Resources/Public Water Supply Section at 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. For more information, contact the Public Water Supply Section, (919) 707-9100.			30 days

Other comments (attach additional pages as necessary, being certain to cite comment authority)

Division	Initials	No comment	Comments	Date Review
DAQ	ddm	<input type="checkbox"/>		5/15/15
DWR-WQROS (Aquifer & Surface)	ds rb	<input type="checkbox"/> <input type="checkbox"/>		5/21/15 5/28/15
DWR-PWS	N/A	<input type="checkbox"/>		/ /
DEMLR (LQ & SW)	JLH	<input type="checkbox"/>	This site appears to be addressed appropriately under the local ordinance.	5/22/15
DWM - UST	MRP	<input type="checkbox"/>	Notify the UST Section at the Raleigh Regional Office if petroleum-contaminated soil or groundwater is encountered during construction.	5/26/15

### REGIONAL OFFICES

Questions regarding these permits should be addressed to the Regional Office marked below.

**Asheville Regional Office**  
2090 US Highway 70  
Swannanoa, NC 28778  
(828) 296-4500

**Mooresville Regional Office**  
610 East Center Avenue, Suite 301  
 Mooresville, NC 28115  
(704) 663-1699

**Wilmington Regional Office**  
127 Cardinal Drive Extension  
Wilmington, NC 28405  
(910) 796-7215

**Fayetteville Regional Office**  
225 North Green Street, Suite 714  
Fayetteville, NC 28301-5043  
(910) 433-3300

**Raleigh Regional Office**  
3800 Barrett Drive, Suite 101  
Raleigh, NC 27609  
(919) 791-4200

**Winston-Salem Regional Office**  
450 West Hanes Mill Road, Suite 300  
Winston-Salem, NC 27105  
(336) 771-9800

**Washington Regional Office**  
943 Washington Square Mall  
Washington, NC 27889  
(252) 946-6481

NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

*Scott Walston*

COUNTY: ORANGE

H11: ENERGY RELATED  
FACILITIES/ACTIVITIES

STATE NUMBER: 15-E-0000-0596  
DATE RECEIVED: 04/28/2015  
AGENCY RESPONSE: 05/25/2015  
REVIEW CLOSED: 05/28/2015

MS CARRIE ATKINSON  
CLEARINGHOUSE COORDINATOR  
DEPT OF TRANSPORTATION  
STATEWIDE PLANNING - MSC #1554  
RALEIGH NC

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DENR LEGISLATIVE AFFAIRS  
DEPT OF AGRICULTURE  
DEPT OF CULTURAL RESOURCES  
DEPT OF TRANSPORTATION  
TRIANGLE J COG

PROJECT INFORMATION

APPLICANT: Orange County  
TYPE: State Environmental Policy Act  
Scoping



DESC: Proposal is for the development of a solar facility on a 35.8 acre parcel located at 1606 White Cross Road (submitted pursuant to Orange County SEPA ordinance)

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED:  NO COMMENT  COMMENTS ATTACHED

SIGNED BY:

*Scott Walston*

DATE:

*5/19/15*



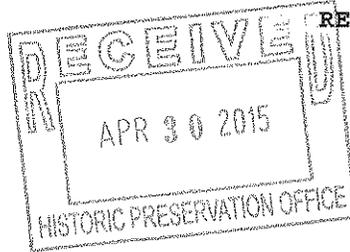
NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

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COUNTY: ORANGE

H11: ENERGY RELATED  
FACILITIES/ACTIVITIES

STATE NUMBER: 15-E-0000-0596  
DATE RECEIVED: 04/28/2015  
AGENCY RESPONSE: 05/25/2015  
REVIEW CLOSED: 05/28/2015



MS RENEE GLEDHILL-EARLEY  
CLEARINGHOUSE COORDINATOR  
DEPT OF CULTURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
MSC 4617 - ARCHIVES BUILDING  
RALEIGH NC

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If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED:  NO COMMENT  COMMENTS ATTACHED

SIGNED BY: Renee Gledhill-Earley

DATE: 5.18.15

CH 15-0975

Due 5/8/15 A- (NC) DAA 5/7/15

Due 5/19/15 S. (NC) AEW 5/12/15



MAY 01 2015

NORTH CAROLINA STATE CLEARINGHOUSE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL REVIEW

76

COUNTY: ORANGE

H11: ENERGY RELATED  
FACILITIES/ACTIVITIES

STATE NUMBER: 15-E-0000-0596  
DATE RECEIVED: 04/28/2015  
AGENCY RESPONSE: 05/25/2015  
REVIEW CLOSED: 05/28/2015

MS CAROLYN PENNY  
CLEARINGHOUSE COORDINATOR  
CC&PS - DIV OF EMERGENCY MANAGEMENT  
FLOODPLAIN MANAGEMENT PROGRAM  
MSC # 4719  
RALEIGH NC

APR 30 2015

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If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED:  NO COMMENT  COMMENTS ATTACHED

SIGNED BY:

*David Hefner*

DATE:

5/4/15

*not in SFHA.*



Attachment 3
--------------

**FINDINGS OF THE ORANGE COUNTY PLANNING BOARD  
PERTAINING TO A REQUEST SUBMITTED BY  
WHITE CROSS SOLAR LLC AND MR. WILLIAM AND CAROL BYRON  
REQUESTING A CLASS A SPECIAL USE PERMIT  
TO CONSTRUCT A SOLAR ARRAY-PUBLIC UTILITY  
ON A PARCEL OF PROPERTY OFF OF WHITE CROSS ROAD AND OLD GREENSBORO ROAD  
FURTHER IDENTIFIED UTILIZING ORANGE COUNTY PARCEL IDENTIFICATION NUMBER (PIN)  
9748-32-0786.**

As required under Section 5.2 *Table of Permitted Uses* of the Orange County Unified Development Ordinance (UDO), a Class A Special Use Permit is required for the development of a solar facility. Such permits shall comply with general and specific standards as set forth in Section(s) 5.3.2 and 5.9.6 of the UDO.

Section 5.3.2 (A) (2) of the UDO requires written findings certifying compliance with the following:

- (1) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
- (2) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and
- (3) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners;

In addition, the Board shall make findings certifying that the application is compliant with the following specific standards:

- (1) Specific standards for the submission of Special Use Permit applications as outlined within Section(s) 2.2 and 2.7 of the UDO,
- (2) Section 5.3.2 (B) relating to the method and adequacy of the provision of:
  - a. Sewage disposal facilities,
  - b. The adequacy of police, fire, and rescue squad protection, and
  - c. The adequacy of vehicular access to the site and traffic conditions around the site
- (3) Specific regulations governing the development of school as set forth in Section 5.9.6 of the UDO,
- (4) The general findings outlined within Section 5.3.2 (A) (2).

Listed below are the findings of the Orange Planning staff regarding the application in question. The findings have been presented by Article and requirement to assist the Planning Board in its deliberations.

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>APPLICATION COMPONENTS</b>				
Proper forms	2.2	Application (Attachment 1 of May 26, 2015 quarterly public hearing packet), Staff testimony	Yes	
Fees paid	2.2.4(D)	Staff Testimony/Application	Yes	
Full description of use <ul style="list-style-type: none"> <li>• Location</li> <li>• Appearance</li> <li>• Operational characteristics</li> </ul>	2.7.3(B)(1)	Application	Yes	
Owner Information	2.7.3(B)(2)	Application	Yes	
Information needed for Use Standards	2.7.3(B)(3)	Application and site plan	Yes	
Site Plans (26 for Class A)	2.7.3(B)(4)	Application/Staff Testimony (Site plan)	Yes	
Preliminary Subdivision Plat (if necessary)	2.7.3(B)(5)	[No subdivision proposed.]	N/A	
List of parcels within 500 feet	2.7.3(B)(6)	Application	Yes	
Elevations of all structures	2.7.3(B)(7)	Application and site plan provide elevation of proposed arrays; staff testimony and pictures as part of power point presentation. No structures (i.e. buildings) are being proposed.	Yes	
Environmental Assessment (or EIS) <ul style="list-style-type: none"> <li>• Topography</li> <li>• Drainage issues</li> <li>• Natural or Cultural resources</li> <li>• Mining</li> <li>• Hazardous Wastes</li> <li>• Wastewater treatment</li> <li>• Water usage</li> </ul>	2.7.3(B)(8)	Application and site plan, applicant testimony, staff testimony, State Clearing House comments ( <a href="#">Attachment 2</a> July 1, 2015 Planning Board packet)	Yes	
Method of Debris Disposal	2.7.3(B)(9)	Application and site plan	Yes	
Development Schedule	2.7.3(B)(10)	Application and site plan	Yes	
Extended Vesting Request	2.7.3(B)(11)	Not requested	N/A	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>NOTIFICATION REQUIREMENTS</b>				
Public Notice <ul style="list-style-type: none"> <li>• Date</li> <li>• Time</li> <li>• Place</li> </ul>	2.7.5(a)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 5) and staff testimony	Yes	
Published in Newspaper <ul style="list-style-type: none"> <li>• Two successive weeks</li> <li>• First notice at least ten days prior but no more than twenty-five days prior</li> </ul>	2.7.5(b)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 5) and staff testimony	Yes	
Sign Posting on Property (at least 10 days prior)	2.7.5(c)	Staff Testimony posted sign on <i>May 14, 2015</i>	Yes	
Mailed Notice <ul style="list-style-type: none"> <li>• Certified mail</li> <li>• All adjacent property owners (within 500 ft.)</li> <li>• Not less than fifteen days prior</li> </ul>	2.7.5(d)	May 26, 2015 Quarterly Public Hearing Abstract (Attachment 5) and staff testimony	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>SPECIFIC STANDARDS</b>				
<p><b>Waste Disposal</b> Method and adequacy of provision for sewage disposal facilities, solid waste and water service.</p>	5.3.2(B)(1)	<p>May 26, 2015 Quarterly Public Hearing Abstract (Attachment 3) and staff testimony.</p> <p>Both Environmental Health and Solid Waste have indicated they have no concerns. As there are no structures (i.e. office) there will be no septic system on the property.</p> <p>Conditions are recommended to require Solid Waste Permit as part of development process.</p>	Yes	
<p><b>Safety</b> Method and adequacy of police, fire and rescue squad protection.</p>	5.3.2(B)(2)	<p>May 26, 2015 Quarterly Public Hearing Abstract (Attachment 3) and staff testimony.</p> <p>Orange County Emergency Service staff and the Sheriff's office have indicated the project can be served.</p> <p>Fire protection will be provided by the White Cross volunteer fire department and rescue services by Orange County.</p>	Yes	
<p><b>Vehicle Access</b> Method and adequacy of vehicle access to the site and traffic conditions around the site.</p>	5.3.2(B)(3)	<p>May 26, 2015 Quarterly Public Hearing Abstract (Attachment 3), applicant testimony, and staff testimony.</p> <p>There will not be an appreciable traffic increase in the area associated with the development of the solar array.</p> <p>The applicant shall be required to obtain a driveway permit through NC DOT.</p>	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>STANDARDS for Solar Array – Public Utility</b>				
<b>Site Plan</b> A site plan prepared in accordance with Section 2.5 of and 5.9.6 (C) (1) inclusive of UDO	5.9.6 (C) (1) (a) through (d)	Application, Applicant Testimony, Staff Testimony, and Site plan.  Site plan provides elevations for proposed arrays, detailed landscape plans (Sheet(s) C1001 and 1002). The application contains required soils report (Attachment 1 of May 26, 2015 quarterly public hearing package).	Yes	
<b>Standards of Evaluation</b>				
On-site utility and transmission lines placed underground when feasible	5.9.6 (C) (2) (a)	Application, Applicant Testimony, Staff Testimony, and Site plan (Sheet C1001 – Note 19)	Yes	
Height of array shall not exceed 40 ft.	5.9.6 (C) (2) (b)	Application, Applicant Testimony, Staff Testimony, and Site plan (Sheet C1001)	Yes	
Individual arrays shall be designed and located to prevent reflective glare toward inhabited buildings on adjacent property and rights-of-way.	5.9.6 (C) (2) (c)	Application, Applicant Testimony, Staff Testimony, and Site plan (Sheet C1001 – Note 20)	Yes	
Warning signs concerning voltage.	5.9.6 (C) (2) (d)	Application, Applicant Testimony, Staff Testimony, and Site plan (Sheet C1001 – Note 15)	Yes	
Mechanical equipment and arrays shall be enclosed by a minimum 8 ft. high fence and screening per Section 6.8 of UDO.	5.9.6 (C) (2) (e)	Application, Applicant Testimony, Staff Testimony, and Site plan (Sheets C1001 and 1002)	Yes	
Proof of liability insurance – minimum of \$500,000.00 per occurrence.	5.9.6 (C) (2) (f)	Application and Applicant Testimony	Yes	
Type D land use buffer around perimeter of project	5.9.6 (C) (2) (g)	Application, Applicant Testimony, Staff Testimony, and Site plan (Sheets C1001 and 1002)	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>STANDARDS for Solar Array – Public Utility (continued)</b>				
Decommissioning of solar facility	5.9.6 (C) (3) (a) through (f) inclusive	<p>Application, Applicant Testimony, Staff Testimony, and Site plan (Sheet C1001 – Note 21).</p> <p>Applicant acknowledges requirement and agreed to the condition in the event the use of the site as a solar array – public utility is ceased.</p>	Yes	

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<b>SPECIFIC STANDARDS</b>				
In accordance with Section 5.3.2 (A) (2), the Planning Board shall also consider the following general conditions before the application for a Special Use can be approved.				
<p><b>NOTE:</b> Planning Staff does not provide a recommendation on these items as the Board is expected to provide a recommendation based on the sworn testimony provided at the hearing. Staff is providing a brief synopsis of the information contained within the submittal the applicant argues demonstrates compliance for reference purposes only.</p>				
<p>The use <b>(will / will not)</b> maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.</p>	<p>Section 5.3.2 (A) (2) (a)</p>	<p>Application package and testimony including:</p> <ul style="list-style-type: none"> <li>• Mr. George Retschle a licensed professional engineer,</li> <li>• Mr. Thomas Hester a licensed real estate appraiser,</li> <li>• Mr. Richard Kirkland a licensed real estate appraiser,</li> <li>• Mr. Richard Moretz a site developer with Cypress Creek Renewables LLC and its subsidiary White Cross Solar LLC, and Mr.</li> <li>• Thomas Cleveland a licensed professional engineer,</li> </ul> <p>on how the project complied with the UDO.</p> <p>Staff testimony and abstract package from May 26, 2015 quarterly public hearing.</p>		

REQUIREMENT	UDO	SUPPORTING EVIDENCE	Staff	Planning Board
<p>The use <b>(will / will not)</b> maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).</p>	<p>Section 5.3.2 (A) (2) (b)</p>	<p>Application package and testimony including:</p> <ul style="list-style-type: none"> <li>• Mr. Thomas Hester a licensed real estate appraiser,</li> <li>• Mr. Richard Kirkland a licensed real estate appraiser,</li> </ul> <p>Staff testimony and abstract package from May 26, 2015 quarterly public hearing.</p>		
<p>The location and character of the use, if developed according to the plan submitted, <b>(will / will not)</b> be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.</p>	<p>Section 5.3.2 (A) (2) (c)</p>	<p>Application package and testimony including:</p> <ul style="list-style-type: none"> <li>• Mr. George Retschle a licensed professional engineer,</li> <li>• Mr. Thomas Hester a licensed real estate appraiser,</li> <li>• Mr. Richard Kirkland a licensed real estate appraiser,</li> <li>• Mr. Richard Moretz a site developer with Cypress Creek Renewables LLC and its subsidiary White Cross Solar LLC, and Mr.</li> <li>• Thomas Cleveland a licensed professional engineer,</li> </ul> <p>on how the project complied with the UDO as well as the submitted site plan.</p> <p>Staff testimony and abstract package from May 26, 2015 quarterly public hearing.</p>		

## RECOMMENDATION:

Staff has not received any comments from local residents and property owners indicating they do not believe the proposed facility complies with the provisions of Section 5.3.2 (A) (2) inclusive. These standards include maintaining or promoting the public health, safety, and general welfare, maintaining or enhancing the value of contiguous property, the use is in harmony with the area in which it is to be located, and the use being in compliance with the general plan for the physical development of the County.

Staff has reviewed the application, the site plan, and all supporting documentation and has found that the applicant **complies** with the specific standards and required regulations as outlined within the UDO with respect to the submittal of required information for the project.

Provided the Planning Board finds in the affirmative on the specific and general standards as detailed herein, and no evidence is entered into the record demonstrating the applicant has either:

- a. Failed to meet their burden of proof that the project complies with the specific development standards for a school, or
- b. Fails to comply with the general standards detailed within Section 5.3.2 (A) (2)

of the UDO, the Board could make an affirmative recommendation on this application to the BOCC.

In the event that the Board makes an affirmative finding, staff recommends the attachment of the following conditions:

1. The applicant shall cause a formal and detailed landscape and tree preservation plan to be submitted and approved by the Orange County Planning Department within 180 days from the approval of the Special Use Permit. This plan shall incorporate the additional 15 ft. land use buffer along the northern property line as testified to during the public hearing.
2. A revised site plan shall be submitted denoting the required development ratios, required under Section 3.3 of the UDO, as part of the staff review and final approval of the site plan in accordance with Section 2.5 of the UDO.  
This revised sheet shall be submitted within 180 days from the approval of the Special Use Permit.
3. The applicant shall cause a subdivision plat shall be submitted creating the individual lots as testified to during the public hearing prior to the issuance of a building permit authorizing land disturbing activities.
4. That the applicant complete and submit a formal application to the Orange County Inspections Department requesting authorization to commence construction of the proposed solar array. The application, including all applicable fees, shall be submitted within 180 days from the approval of the Special Use Permit.
5. That the Orange County Fire Marshal's office shall review and approve the final site plan, as part of the normal building permit review process, and that any and all modifications be made to address fire code issues and access prior to the issuance of the permit authorizing the commencement of land disturbing activities.
6. The applicant shall provide a detailed, scaled, map to the Orange County Fire Marshal's office and the White Cross Volunteer Fire Department denoting the location of all storage areas for batteries, master cut-off switches, and other similar devices to ensure the

protection of emergency responders in the event of a catastrophic incident on the property. This map shall be submitted prior to the issuance of a Certificate of Occupancy by the County allowing for operation of the facility to commence.

7. The applicant shall submit a Solid Waste Management application for the project within 180 days from the approval of the Special Use Permit.
8. That prior to the commencement of land disturbing activity the applicant shall submit all necessary stormwater, grading plans, and erosion control applications to the Orange County Erosion Control Department for review and processing. These applications shall be submitted within 180 days from the issuance of the SUP.
9. That the applicant shall submit the approved site plan to NC DOT for review and comment. In the event it is determined that the applicant is required to apply for, and receive a, driveway permit from NC DOT to allow for the project to be developed, the applicant shall submit all necessary applications as required by NC DOT within 180 days from the issuance of the SUP and provide planning staff with a copy of the issued permit.
10. The Special Use Permit will automatically expire within 12 months from the date of approval if the use has not commenced or construction has not commenced or proceeded unless a timely application for extension of this time limit is approved by the Board of Adjustment.
11. If any condition of this Special Use Permit shall be held invalid or void, then this Special Use Permit shall be void in its entirety and of no effect.

**ORANGE COUNTY  
PLANNING BOARD  
ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: July 1, 2015

**Action Agenda  
Item No. 9**

**SUBJECT:** Zoning Atlas Amendment: Conditional Zoning –Master Plan Development  
Conditional Zoning District (MPD-CZ) Hart’s Mill

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**DEPARTMENT:** Planning and Inspections

**PUBLIC HEARING:** (Y/N)

Yes

**ATTACHMENTS:**

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

**INFORMATION CONTACT:**

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

**PURPOSE:** To begin review of a request to rezone a 112 acre parcel of property to Master Plan Development – Conditional Zoning (MPD-CZ) district in accordance with the provisions of Section 2.9.2 of the Unified Development Ordinance (hereafter ‘UDO’).

Conditional Zoning District (CZD) Process: The process involves the approval of a rezoning petition and site plan allowing for the development of specific land use(s) on a parcel of property. Applications are processed in a legislative manner (i.e. does not require sworn testimony or evidence) and decisions are based on the BOCC’s determination that the project is consistent with the purpose and intent of the Comprehensive Plan. The typical cadence for the review of a CZD application is:

- **First Action** – Planning staff schedules a Neighborhood Information Meeting (NIM).  
**Staff Comment – DONE.** This meeting was held on April 8, 2015.
- **Second Action** – The BOCC and Planning Board review the application at 1 of 4 joint Quarterly Public Hearings.  
**Staff Comment – DONE.** The public hearing was held on May 26, 2015.
- **Third Action** – The Planning Board makes a recommendation on the proposal.  
**Staff Comment –** The Planning Board is scheduled to review this item at its July 1, 2015 regular meeting.
- **Fourth Action** – The BOCC receives the Planning Board recommendation and makes a decision.  
**Staff Comment –** The BOCC is scheduled to receive the Planning Board recommendation at its September 1, 2015 regular meeting. This date will, undoubtedly, have to be changed.

**BACKGROUND:** This item was presented at the May 26, 2015 Quarterly Public Hearing. Agenda materials from this meeting can be viewed at: <http://www.orangecountync.gov/150526QPHKC.pdf>.

As articulated at the public hearing, the proposed project is a village style development with approximately 34 dwelling units and involves the preservation of the majority of the property as vegetative open space and farm area (i.e. pasture and crop production). The residential portion of the project would occupy approximately 22 acres of the parcel with another 5 to 8 acres being used to support the proposed septic system. The remaining acreage would be preserved as farmland and dedicated open space.

During the public hearing the following comments were made:

1. There was general support for the project.
2. A BOCC member requested additional information on the ownership mechanism proposed by the applicant, expressing concern(s) over how residents will own their individual housing units and surrounding property.

STAFF COMMENT: Staff and the applicant indicated the information would be provided.

3. A BOCC member asked for clarification on the imposition of conditions.

STAFF COMMENT: As detailed in the public hearing abstract, mutually agreed upon conditions can be imposed as part this process only if they address:

- i. The compatibility of the proposed development with surrounding property,
- ii. Proposed support facilities (i.e. roadways and access points, parking, pedestrian and vehicular circulation systems, screening and buffer areas, etc.) and/or
- iii. All other matters the County may find appropriate or the petitioner may propose.

4. A BOCC member asked staff to clarify proposed and allowable density.

STAFF COMMENT: The property is located within the Rural Residential (R-1) general use zoning district and the Upper Eno Protected Watershed Protection Overlay District allowing for a density of 1 dwelling unit for every 40,000 sq. ft. (0.92 acres) of property.

This could result in a total of 112 dwelling units being developed on the property based purely on the size of the parcel and not taking other factors into consideration (i.e. adequate soils for septic, road access, permitting process, presence of stream and other environmental features, etc.).

If approved the project would only allow for 1 dwelling unit for approximately every 3.2 acres of property.

5. A Planning Board member asked if additional dwelling units could be added in the future.

STAFF COMMENT: The plan could be modified through the submittal and processing of a new Conditional Zoning petition. This would mean the holding of a new neighborhood information meeting and a public hearing to review the proposal.

6. A BOCC member asked if the applicant was being asked to extend road access to adjacent parcels.

STAFF COMMENT: It is not practical to extend the proposed roadway to the east due to the presence of streams and floodplain. There is no perceived benefit in

requiring connection with adjoining subdivisions as this could create traffic concerns for adjacent neighborhoods.

7. A BOCC member asked the applicant to provide additional detail on the proposed 6 inch water line serving the project and if the line would be adequate to support water for both consumption and firefighting capabilities.
8. Several BOCC members asked for clarification on the proposed septic system for the project.
9. Planning staff indicated the applicant was asked to provide additional detail on proposed landscaping in and around individual residential structures.

As of this date we are awaiting a response from the applicant on the various questions posed at the public hearing.

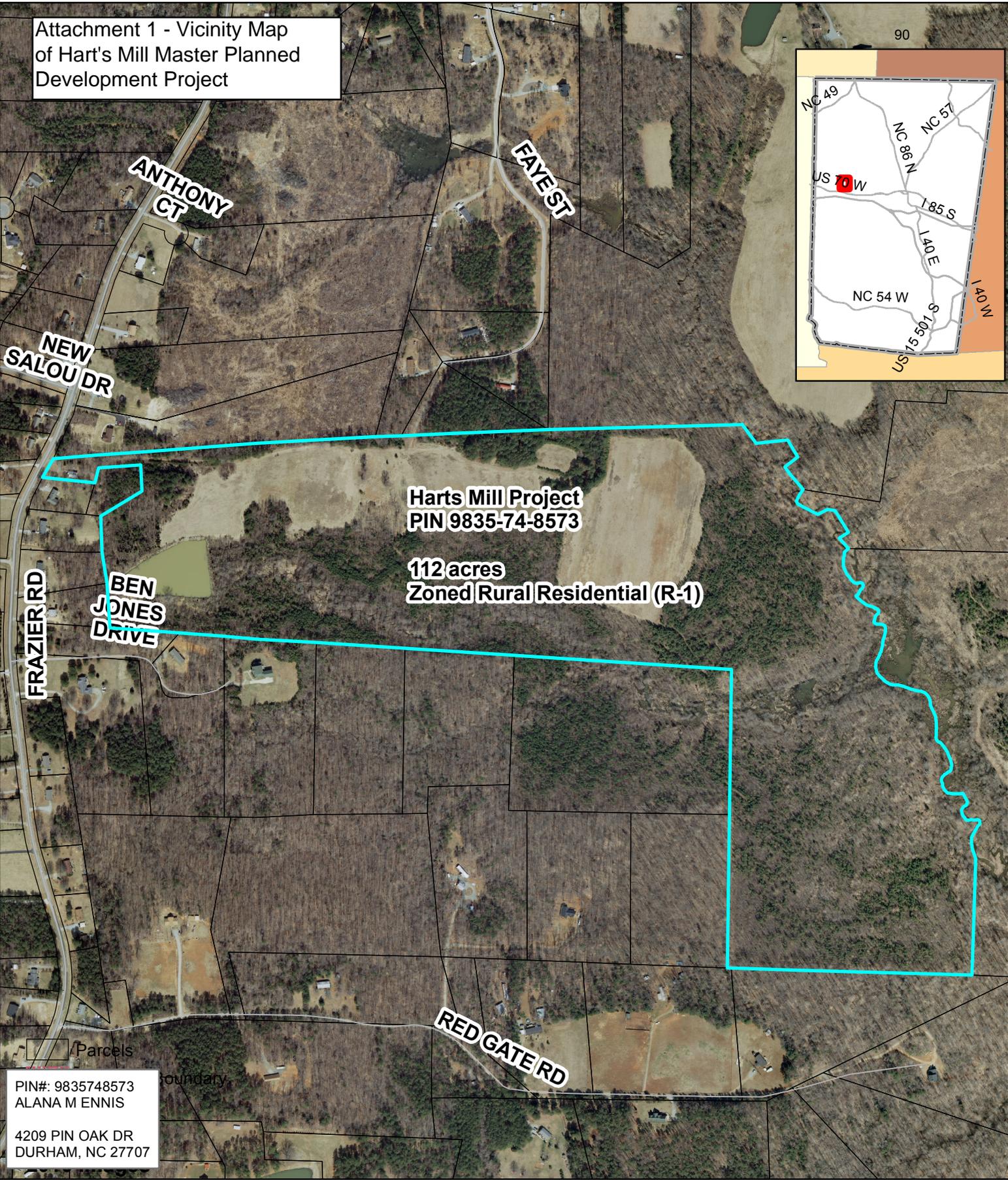
Planning Director's Analysis: The Planning Director has reviewed the proposal and is supportive of the project. We are awaiting answers to these aforementioned questions, however, before we make a formal recommendation. Staff has provided draft Statement of Consistency in Attachment 2 and an ordinance approving the rezoning request, and establishing development conditions/criteria, in Attachment 3 to aid Board members in their review.

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

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

**RECOMMENDATION(S):** The Planning Director recommends the Board continue review the project and request any additional information deemed necessary to aid them in being able to make a recommendation to the BOCC.

Attachment 1 - Vicinity Map  
of Hart's Mill Master Planned  
Development Project



Harts Mill Project  
PIN 9835-74-8573

112 acres  
Zoned Rural Residential (R-1)

Parcels  
boundary

PIN#: 9835748573  
ALANA M ENNIS  
4209 PIN OAK DR  
DURHAM, NC 27707



1 inch = 582 feet



Orange County Planning and Inspections Department  
03/27/2015

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

Hart's Mill LLC and Ms. Alana Ennis, owners of a 112 acre parcel of property within Orange County, have initiated an amendment to the Orange County Zoning Atlas, as established in Section 1.2 of the Orange County Unified Development Ordinance (UDO) to rezone property:

**From:** Rural Residential (R-1), Upper Eno Protected Watershed Protection Overlay District, Special Flood Hazard Area (SFHA) Overlay District.

**To:** Master Plan Development Conditional Zoning (MPD-CZ), Upper Eno Protected Watershed Protection Overlay District, Special Flood Hazard Area (SFHA) Overlay District.

allowing for the development of a village style residential community. The parcel, further identified utilizing Orange County Parcel Identification Number (PIN) 9835-74-8573, is located along Frazier Road (SR 1310) approximately 2,900 feet south of the intersection of Frazier and Lebanon Road (SR 1306) hereafter referred to as 'the property'.

The Planning Board finds:

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

The amendment is consistent with applicable plans because it:

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

4. Objective LU-3.5: *Recognize the right to farm and discourage the location of new non-farm development, particularly more intensive residential development, within farming areas to minimum the incidence of complaints and nuisance suits against farm operations.*
5. Objective LU-3.9: *Create new zoning district(s) which allow for a mixing of commercial and residential uses, a mixing of housing types, and creates a more pedestrian friendly development pattern. New districts should be applied in areas where public services exist or are planned for in the future, in areas that promote higher intensity and high density uses on the Future Land Use map.*

The amendments are reasonable and in the public interest because:

- a. The amendment allows the development of a project achieving a reasonable balance of protecting existing natural area and land uses (i.e. farming operations) while allowing for an appropriate level of residential development at a density of 1 unit for every 3 acres.

The current zoning designation allows development at a potential density of 1 unit for every 40,000 sq. ft. of land area with no guarantee existing farmland or mature forest would be preserved.

- b. The amendment allows for the development of a pedestrian friendly community with different housing options for residents.

The project requires vehicles to be parked in designated areas prohibiting access to individual residential structures, which shall be access via a proposed pedestrian trail system.

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

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

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Pete Hallenbeck, Chair

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Date

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

WHEREAS, Orange County has received and processed a petition submitted by Hart's Mill LLC and Ms. Alana Ennis seeking to amend the Orange County Zoning Atlas, as established in Section 1.2 of the Orange County Unified Development Ordinance (UDO), and

WHEREAS, This petition seeks to rezone a 112 acre parcel of property, further identified utilizing Orange County Parcel Identification Number (PIN) 9835-74-8573, to Master Plan Development Conditional Zoning District (MPD-CZD) for the purpose of developing the Hart's Mill Hart's Mill Village, a 34 unit residential farm community.

WHEREAS, This petition has been submitted in concert with a formal site plan in accordance with the provisions of Section 2.9.2 (C) of the UDO, and

WHEREAS, the requirements of Section 2.8 and 2.9.2 of the UDO have been deemed complete, and

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

BE IT ORDAINED by the Board of Commissioners of Orange County that the Orange County Zoning Atlas is hereby amended to rezone the 112 acre portion of the aforementioned parcel to Master Plan Development Conditional Zoning (MPD-CZ) and allow development of the Hart's Mill Village as detailed on the submitted site plan.

BE IT FURTHER ORDAINED THAT in accordance with Section 2.9.2 (F) of the UDO the approval of this Conditional Zoning applicant is subject to the following mutually agreed to conditions:

1. The property shall be utilized only as a village oriented residential/farming community as denoted on the submitted site plan.
2. County staff shall prepare a 'Declaration of Development Restrictions and Requirements' outlining all conditions and development limitations associated with this project that the applicant shall record within the Orange County Registrar of Deeds office within 180 days of approval.
3. In accordance with the submitted application and site plan, development of the project shall be limited as follows:
  - a. Permitted residential density for project shall be limited to 1 dwelling unit for every 3 acres of property with an overall limit of 34 dwelling units constructed on the property.
  - b. Allowable Land Uses for the project shall include:
    - i. Farm operations (i.e. animal husbandry, crop production, processing, etc.)

- ii. Accessory farm structures including, but not limited to:
    - a. 2 farm houses/barns
    - b. Maximum of 2 garages for farm equipment/vehicle storage
    - c. Woodworking shop
    - d. Produce processing center (washing/packing area)
    - e. Pottery studio with kiln
  - iii. Single-family and two-family (i.e. duplex) residential units.
  - iv. Community House, limited to a total square footage of 3,000 sq. ft., with common facilities including, but not limited to: laundry facilities, mail room, activity room, and community kitchen
  - v. Administrative office including meeting facilities for local residents.
  - vi. Accessory uses to residential uses including:
    - a. Maximum of 2 art/hobby studios for use by local residents not to exceed a total square footage of 1,000 sq. ft. per building.
    - b. Minor home occupations shall be allowed for each residential dwelling unit. Such uses shall be reviewed and acted upon in accordance with the UDO.
    - c. Parking area/garages.
    - d. Electric car/golf cart charging stations.
  - vii. Solar Array – Large Facility to be reviewed and acted upon in accordance with the provisions of Section(s) 2.7 and 5.9.6 of the UDO.
- c. Setbacks:
- i. No residential structure shall be located within 100 ft. of the perimeter of the property line.
  - ii. No farm structure housing animals shall be within 40 ft. of the perimeter property line.
  - iii. All residential structures shall observe the following setbacks from identified residential spaces:
    - a. Front Yard: 10 ft.
    - b. Side Yard: 10 ft.
    - c. Rear Yard: 10 ft.
    - d. All structures shall comply with minimum spacing requirements established within NC State Building Code for separation between structures.
- d. Ratio standards:
- a. Minimum Percentage of Open Space for project: 80% or 89 acres. Farm/pasture operations, roadways and parking areas, as well as off-site septic areas shall be allowed within this open space area.

- b. Maximum Allowable Floor Area Ratio (i.e. the cumulative amount of floor area for the project): 0.10
  - c. Required Recreation Space Ratio, minimum: 0.031
  - e. Landscaping shall be installed on every individual residential space in accordance with the provisions of Section 6.8.7 of the UDO.
  - f. Provision of waste disposal services: Wastewater shall be disposed of via a shared septic area as denoted on the approved site plan and shall be approved by the Orange County Health Department and the State of North Carolina.
  - g. Water service to individual buildings shall be through a water system served by Orange Alamance Water System. Individual wells shall be limited to use in support of agricultural operations.  
In the event water service cannot be provided individual wells or a community well shall be permitted if approved by the appropriate agency.
  - h. Access: access to the project shall be through a single access point on Frazier Road. No additional vehicular access points shall be developed.
  - i. Parking: all vehicles shall be parked in designated areas as identified on the site plan. A total of 90 parking spaces shall be provided for residents and their guests.
4. The applicant shall be required to obtain final approval for the proposed dumpster pad location from Orange County Solid Waste prior to the commencement of earth disturbing activity.
  5. The applicant shall be required to obtain stormwater and erosion control permits from Orange County Erosion Control prior to the commencement of earth disturbing activity.
  6. The applicant shall be required to obtain a driveway permit from the North Carolina Department of Transportation prior to the commencement of earth disturbing activity.  
The applicant shall provide the Orange County Planning Department with a copy of this permit.
  7. The applicant shall be required to obtain building permits from the Orange County Inspections Department prior to the commencement of construction activity.
  8. The applicant shall be required to obtain sign permits from the Planning Department in accordance with the provisions of the Orange County Unified Development Ordinance.
  9. The Orange County Fire Marshal shall review and give final approval to road layout and construction methodology prior to the initiation of land disturbing activities. The Fire Marshal shall also review and approve the final location of the emergency fire access roadway and location of the proposed stand-pipe prior to installation.
  10. The applicant shall be required to maintain all required land use buffers in perpetuity in accordance with the requirements of Section 6.8 of the Orange County Unified Development Ordinance.

- 11. All required landscaping, as denoted on the site plan, shall be installed prior to the issuance of a Certificate of Occupancy for each individual residential structure or the proposed common house.
- 12. The applicant shall coordinate with Orange Alamance Water System, Orange County Emergency Services, and the Efland Volunteer Fire Department holding a fire-flow test for the proposed fire hydrants. The test shall be certified by the various parties as complying with applicable State Fire Code standards with respect to necessary water flow.

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

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

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

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

SEAL

\_\_\_\_\_  
Clerk to the Board of Commissioners