

**ORANGE COUNTY BOARD OF COMMISSIONERS  
ORANGE COUNTY PLANNING BOARD**

**QUARTERLY PUBLIC HEARING AGENDA**

**September 8, 2014**

**7:00 P.M.**

**Richard Whitted Meeting Facility**

**300 West Tryon Street**

**Hillsborough, NC 27278**

**NOTE: Information is available on-line at the "Meeting Agendas" link at:**

**<http://www.orangecountync.gov/>**

**and also in the Planning Department or the County Clerk's Office**

**NOTICE TO PEOPLE WITH IMPAIRED HEARING: Audio amplification equipment is available on request. If you need this assistance, please call the County Clerk's Office at (919) 245-2130.**

**A. OPENING REMARKS FROM THE CHAIR**

**B. PUBLIC CHARGE**

The Board of Commissioners pledges to the residents of Orange County its respect. The Board asks its residents to conduct themselves in a respectful, courteous manner, both with the Board and with fellow residents. At any time should any member of the Board or any resident fail to observe this public charge, the Chair will ask the offending member to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

**C. PUBLIC HEARING ITEMS**

- 1. 2030 Comprehensive Plan and Unified Development Ordinance (UDO) Text Amendments and Zoning Atlas Amendments** - To review government-initiated amendments to the text of the Comprehensive Plan and UDO and to the Zoning Atlas to establish two new zoning overlay districts in the Efland area.
- 2. 2030 Comprehensive Plan Future Land Use Map Amendment** - To review government-initiated amendments to the Future Land Use Map of the Comprehensive Plan to assign County land use classifications to approximately 500 acres of property that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ) located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships.
- 3. Zoning Atlas Amendment** - To review government-initiated amendments to the Zoning Atlas to assign County zoning districts to approximately 500 acres of property that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ) located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships.

- 4. Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO to require that a neighborhood information meeting be held at least 30 days prior to the public hearing regarding applications for a Class A or Class B Special Use Permit.
- 5. Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO to change the existing public hearing process for Comprehensive Plan-, UDO-, and Zoning Atlas-related items/amendments.

#### **D. ADJOURNMENT OF PUBLIC HEARING**

**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2014

**Action Agenda  
Item No. C.1**

**SUBJECT:** Comprehensive Plan and Unified Development Ordinance Text Amendments and Zoning Atlas Amendments to Establish Two New Zoning Overlay Districts in the Efland Area

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**DEPARTMENT:** Planning and Inspections

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

Yes

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**ATTACHMENT(S):**

**INFORMATION CONTACT:**

- |   |  |                              |
|---|--|------------------------------|
| 1. Comprehensive Plan / Future Land Use Map and Unified Development Ordinance (UDO) Amendment Outline Form (UDO/Zoning-2013-09) | Perdita Holtz, Planner III<br>Craig Benedict, Director | 919-245-2578<br>919-245-2592 |
| 2. Chart Distributed at Public Information Meeting  |  |                              |
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**PURPOSE:** To continue the public hearing until December 1, 2014 on Planning Director initiated amendments to the Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas to establish two new zoning overlay districts in the Efland area. The primary purpose of the overlay districts is to provide for a more village and urban style of development in an area of the county served, or intended to be served, by public water and sewer systems.

**BACKGROUND:** The proposed amendments were heard at the February 24, 2014 quarterly public hearing (materials available at: <http://orangecountync.gov/occlerks/140224.pdf>). As a result of comments made at the hearing, staff was instructed by the Board of County Commissioners (BOCC) to hold a meeting in the community and the public hearing was adjourned to September 8, 2014.

Staff held a public information meeting about the proposed zoning overlay districts on April 7, 2014 at Efland-Cheeks Elementary School. Approximately 33 people attended the meeting where staff explained the proposed amendments and provided the purpose/rationale for each proposed standard (see Attachment 2). The materials used/presented at the public information meeting are available at: <http://orangecountync.gov/planning/includes/ProposedEflandZoningOverlayDistrict.asp>. Staff encouraged meeting attendees to contact staff if they wanted to meet one-on-one with staff or in small groups to further discuss the proposed overlay districts.

Community members contacted Planning staff in mid-August to set up a meeting with staff to discuss the proposed overlay districts and to request that the public hearing process be extended. Staff met with community members on August 18 at the Ruritan Club in Efland. As a result of the meeting, a regular meeting date/time has been established so that community

members and staff can work together on the final form of the proposed amendments. Because the process is expected to take several months, staff is recommending the public hearing be continued again to a date/time certain (as is required by State statutes/case law). Because the 2015 meeting calendar has not yet been adopted, staff is recommending that the public hearing be adjourned to the December 1, 2014 regular BOCC meeting at which time it is expected that the public hearing will be re-adjourned to a meeting in March 2015.

The form in Attachment 1 contains additional information and analysis regarding these County initiated amendments, which are consistent with the adopted Efland-Mebane Small Area Plan, and has been updated to reflect the currently proposed process.

Because the proposed Comprehensive Plan/UDO amendments are lengthy and are not expected to be directly discussed at the September 8 quarterly public hearing, they have not been included as an attachment to this abstract. At this time, the amendment package has not been changed (except to correct a cut-and-paste error) from the materials presented at the February 24 hearing (link to materials above).

**FINANCIAL IMPACT:** See Section C.3 of Attachment 1.

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

1. Open the public hearing that was adjourned at the February 24, 2014 quarterly public hearing.
2. Accept any additional public, BOCC, and Planning Board comment on the proposed amendments.
3. Adjourn the public hearing until December 1, 2014 at which time it is expected the public hearing will be further adjourned until a March 2015 meeting date.

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

## UDO / Zoning-2013-09

Two New Zoning Overlay Districts in the Efland Area

### A. AMENDMENT TYPE

**Map Amendments**

- Land Use Element Map:  
From:  
To:
- Zoning Map: Add Two New Zoning Overlay Districts in the Efland Area  
From:  
To:
- Other:

**Text Amendments**

- Comprehensive Plan Text:
 

Appendix F – Land Use and Zoning Matrix: Add tick marks to potentially allow a “Special Zoning Overlay District” in all of the Transition land use classifications.
- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes

Section(s): Text Amendments to: Sections 2.5.7 and 4.4  
 Add New Sections: 4.5, 4.6, 6.6.3 and 6.6.4.  
 Renumber Existing Sections: 4.5, 4.6, and 6.6.3  
 Reference Changes in Existing Sections: 4.5.1, 6.8.12, and 7.13.2.
- Other:

### B. RATIONALE

**1. Purpose/Mission**

To consider Comprehensive Plan, UDO, and Zoning Atlas amendments to establish two new zoning overlay districts in the Efland Area. This proposal is the staff recommended version of the text amendment considered by the BOCC at its February 5, 2013 meeting but it was not adopted. Agenda materials from the February 5, 2013 meeting can be viewed at: <http://www.orangecountync.gov/occlerks/130205.pdf>

## 2. Analysis

As required under Section 2.8.5 of the Unified Development Ordinance, the Planning Director is required to: 'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'. The following information is offered:

The proposed zoning overlay districts are consistent with the recommendations made in the adopted Efland-Mebane Small Area Plan (<http://orangecountync.gov/planning/documents/EflandPlanADOPTED062706.pdf>) which called for design standards in the "core area" of Efland. The primary purpose of the overlay districts is to provide for a more village and urban style of development in an area of the county served, or intended to be served, by public water and sewer systems. The affected area is also designated as a Commercial-Industrial Transition Activity Node (CITAN) on the County's Future Land Use Map. It is pertinent to note that some of the zoning districts allowed in a CITAN land use classification allow residential uses "by right" (e.g., residential uses, including single family residential, are allowed in the County's commercial zoning districts).

The proposed overlay districts requirements have been written so that the requirements will not pertain to existing or new single-family detached residential uses. New non-single-family residential uses (e.g., duplexes, multi-family) and new non-residential uses proposed in the overlay districts will be required to conform to the requirements of the overlay districts. Existing uses are not required to come into conformance with the new requirements as long as they continue to operate in the manner in which they are currently operating. The new requirements pertain to new development or substantially modified existing development.

Because County development regulations pertain primarily to areas that are not intended to be served by public and water systems, which tends to result in larger lot sizes and lower density, some of the County's regulations are not suitable for areas intended to have denser or more intensive development on smaller lots. For example, some of the land use buffer requirement in Section 6.8 of the UDO would be infeasible to meet on a parcel of property that is less than 100 feet in width and has an area measurement typically referred to in square feet rather than in acres. However, in areas of the county slated for denser development than the outlying rural areas, smaller sized lots with buildings closer together is to be expected. Therefore, development regulations must be modified to reflect these physical differences while continuing to strive for quality development. The proposed overlay districts endeavor to encourage development while ensuring quality.

Development will still be required to meet the impervious surface limitations contained in Section 4.2 of the UDO. Because the impervious surface limitations stem from State statutes/rules, modifications to the allowable percentages are not permitted except as allowed in Section 4.2.8.

The primary reason the former proposal was not adopted was disagreement over whether sidewalks (publicly owned/maintained) and/or privately owned/maintained connecting walkways would be required in the Efland Village Overlay District. More information about this topic is available in the Amendment Form for the former project, viewable at: <http://www.orangecountync.gov/occlerks/130205.pdf>. The link to the October 2011 work session materials where the BOCC discussed and gave direction on

“the sidewalk issue” is: <http://www.orangecountync.gov/OCCLERKS/1110062.pdf> and the Minutes from this work session can be found at: <http://server3.co.orange.nc.us:8088/weblink8/0/doc/23818/Page1.aspx>. The current proposal does not include a requirement for public sidewalks or private connecting walkways. The current proposal includes requirements for private internal pedestrian circulation systems for large projects (defined in the text).

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

#### **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. (See also Economic Development Objectives ED-2.1, ED-2.3, ED-2.10, and Water and Wastewater Objective WW-2.)

#### **Objective LU-3.7:**

Ensure that new development patterns in non-residential nodes encourage a clustered, walkable development pattern and discourage strip development.

#### **Objective LU-3.8:**

Develop a process for implementing small area plan recommendations through the revision of County policies and regulations.

#### **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.

#### **Objective H-3.6:**

Work within the Orange County government system to identify and resolve existing policies which may be at odds with historic preservation goals, green building approaches, and workforce and affordable housing efforts. (See also Cultural Resources Objective CR-3 and Economic Development Objective ED-4.1.)

### **4. New Statutes and Rules**

Not applicable.

## **C. PROCESS**

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

#### **a. BOCC Authorization to Proceed**

June 19, 2012 (last year’s proposal)

October 15, 2013 (current proposal)

b. Quarterly Public Hearing

February 24, 2014 (current proposal)

The former proposal was heard at the November 19, 2012 joint public hearing. Meeting Minutes and a summary of the questions/comments made at the November 2012 public hearing are part of the February 5, 2013 meeting materials (<http://www.orangecountync.gov/occlerks/130205.pdf>).

March 2015

c. BOCC Updates/Checkpoints

February 4, 2014 – approval of legal ad

September 8, 2014 – re-adjourn public hearing to December 1, 2014

December 1, 2014 – re-adjourn public hearing to March 2015

d. Other

## 2. **PUBLIC INVOLVEMENT PROGRAM**

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

a. Planning Board Review:

November 6, 2013 – special presentation on NC counties ability to provide/maintain sidewalks (agenda materials are available

at: <http://www.orangecountync.gov/planning/documents/PBAgendaNov2013-web.pdf>;

minutes are available

at: <http://www.orangecountync.gov/planning/documents/11613PBMinutes.pdf>)

April 2015 - recommendation

b. Advisory Boards:

The EMSAP Implementation Focus Group reviewed and commented on the proposed overlay districts as part of the prior process. The Group was not reconvened for the February 2014 reconsideration since significant changes to the former work was not being proposed.

Depending on the outcome of the work staff will complete with community representatives, the Group may be reconvened in early 2015 if significant changes to the proposed overlay districts are proposed.

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- c. Local Government Review:  
Not applicable
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d. Notice Requirements

Notices to affected and adjacent property owners were mailed on February 7, 2014. A total of 110 letters were mailed to affected property owners and 77 postcards were mailed to adjacent property owners.

Legal advertisements were run in The Herald Sun and the News of Orange on February 12 and 19.

25 notification signs were posted in strategic areas of the affected area on February 11, 2014. The signs were posted 3 days before the "deadline date" due to forecasts for snow and ice.

e. Outreach:

General Public: Because significant changes to the prior materials were not being proposed, a separate public meeting for these amendments was not proposed in the Amendment Outline/Process Form that was approved by the BOCC on October 15, 2013.

An "open house" style public information meeting for the prior proposal was held on November 14, 2012 at the Efland-Cheeks Community Center. Ten people and one BOCC member attended the meeting.

As a result of public comments at the February 24, 2014 quarterly public hearing, the BOCC instructed staff to hold a community meeting. A public information meeting was held on April 7, 2014 at Efland-Cheeks Elementary School. Approximately 33 people attended the meeting.

In mid-August 2014 members of the community requested a meeting with Planning staff. Staff met with several community members on August 18 at the Ruritan Club in Efland.

Small Area Plan Workgroup:

Because significant changes to the prior materials were not being proposed, Planning staff did not suggest additional meetings in the Amendment Outline/Process Form that was approved by the BOCC on October 15, 2013.

As part of the prior proposal, the EMSAP IFG met on August 29, 2012 to review and comment on the proposed overlay districts. The group decided that additional meetings were not necessary as the proposed overlay districts were consistent with the intent of the adopted EMSAP.

Depending on the outcome of the work staff will complete with

community representatives, the Group may be reconvened in early 2015 if significant changes to the proposed overlay districts are proposed

Other:

### 3. **FISCAL IMPACT**

The prior project required a fairly substantial amount of Planning staff time to complete and was accomplished by existing staff. Since significant changes were not being proposed as part of the reconsideration heard at the February 24, 2014 quarterly public hearing, staff time commitments were not overly significant. The legal advertisements, notification mailings, and signs were be paid using Planning Department FY13-14 funds budgeted for these purposes.

Staff time necessary for this proposal since the February 24, 2014 quarterly public hearing has increased as community meetings have been held and because staff will be meeting with community representatives on a monthly basis for several months.

Adoption of the two new zoning overlay districts is not expected to impact County funding needs.

## D. AMENDMENT IMPLICATIONS

Adoption of the amendments will mean that new development (other than detached single family houses) in the affected area will be subject to the requirements of the zoning overlay district. In some cases, such as required buffering, this is a lessening of existing regulations to reflect the smaller sized lots that exist in the affected area. In other instances, such as architectural requirements, the proposed regulations are slightly more restrictive than existing regulations.

The regulation requirements are consistent with the recommendations contained in the adopted Efland-Mebane Small Area Plan and are being proposed in order to encourage a more urban style of development in the proposed Efland Interstate Overlay District and a more urban village style of development in the proposed Efland Village Overlay District while also promoting good planning/development practices and quality development.

## E. SPECIFIC AMENDMENT LANGUAGE

Amendment package presented at the February 24, 2014 quarterly public hearing is available on-line at: <http://orangecountync.gov/occlerks/140224.pdf>.

### **Primary Staff Contact:**

Perdita Holtz, Planner III

(919) 245-2578

pholtz@orangecountync.gov

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
1.	4.5.3 (B)(1)	The minimum side and rear setback shall be with width of the required buffer in 6.6.3(B) or the setback required in Article 3 or Section 6.2.8, whichever is less, except as provided in (a).	Section 6.6.3(B) pertains to Landscaping & Buffering requirements, which are being lessened from the existing regulations that apply in this area. This will make the smaller parcels found in the area more developable and also will lead to a more “urban village” style of development than in found in areas of the county that do not have water & sewer services.
2.	4.5.3(B)(1)(a)	(Referenced in standard above) For parcels subject to the setback and yard requirements in Section 4.7.4, the requirements of said Section shall apply.	Section 4.7.4 pertains to the Major Transportation Corridor (MTC) Overlay District (which is the areas along the interstates in Orange County). The MTC is present in some of the geographic area covered by the proposed Efland Interstate overlay district. In those cases where there is overlap, the requirements of the MTC will apply.
3.	4.5.3(B)(2)	Where applicable, the front yard setback shall be measured from any future right-of-way as designated on the Orange County <del>Thoroughfare</del> <u>Comprehensive Transportation</u> Plan.	The language in the standard will be updated as shown with the strikethrough/underline text. At this time, the County does not have a Comprehensive Transportation Plan that designates future right-of-way needs but anticipates developing one in the future in order to serve future roadway/transportation needs. If a parcel in the proposed overlay district area is affected by the future plan, it makes good planning and development sense to have buildings setback appropriately from anticipated future roads. Doing so both minimizes the chance that a building would have to be removed due to the need for a new road and ensures buildings are setback far enough from any future roads so that you don’t end up with a situation of having a building immediately adjacent to the roadway right-of-way line and no longer having a front yard for that parcel.

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
4.	6.6.3(A)(1) (A) is “Circulation and Connectivity”	All site planning for property east of Mount Willing Road shall take into account the need for a connecting roadway between Mount Willing Road and the Interstate 85/U.S. Highway 70 Connector.	The described roadway is depicted on the adopted Access Management Plan for the area (which was done as one of the implementing measures of the small area plan in addition to being good planning practice to designate future access needs in advance of development). Existing Section 2.5.3(V) of the UDO (dealing with site plan requirements) already requires compliance with adopted access management plans. This proposed standard is included in the language for the interstate overlay district so that users are immediately aware of the requirement.
5.	6.6.3 (A)(2)	All site planning west of Mount Willing Road shall take into account: (a) A possible re-alignment of Efland-Cedar Grove Road under the existing railroad track to connect to Mount Willing Road, as described in the adopted Efland-Mebane Small Area Plan. (b) The need for a connecting roadway between Mount Willing Road and Buckhorn Road, as depicted on the Efland-Buckhorn-Mebane Access Management Plan, adopted November 11, 2011.	The small area plan calls for future re-alignment of Efland-Cedar Grove Road under the railroad track in order to both improve traffic flow and safety in the area by minimizing the number of at-grade railroad crossings and to attempt to ensure that emergency vehicles are not held up at the rail crossing when trains are going by. Although this project is likely far in the future (due to the Department of Transportation [DOT] process to get projects programmed and funded), it is good planning practice to anticipate future needs for road right-of-way when development projects are proposed and to work with developers to ensure that both future needs are met and that future anticipated projects disrupt development as little as possible. Standard (a) achieves this idea.  The explanation for proposed standard (b) is the same as the explanation for 6.6.3(A)(1) immediately above (“Easy Reference Number” 4).

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
6.	6.6.3 (A)(3)	In order to manage access on public streets, a site shall be permitted no more than one entrance/exit point unless justified by site configuration, trip generation, and traffic conditions, including the need for separate service and visitor/employee vehicular access, and/or one-way traffic movement.	<p>A limit on the number of access points on a roadway helps to maintain traffic flow and capacity on roadways. Capacity is affected when there are many turn movements because traffic must slow down to achieve the turn movements.</p> <p>Additionally, current DOT practice for driveway permits will likely limit all but the largest projects to one access point. Lastly, this is also a requirement in the UDO for properties in the Economic Development Districts because it is good planning practice.</p>
7.	6.6.3 (A)(4)	Intra-site accessibility shall be provided. Vehicles shall not be required to enter the public street in order to move from one area to another on the same site.	<p>This standard is proposed in order to ensure projects do not use the public roadway as the only access to move from one area of the site to another area. This is good site planning practice because it helps to maintain traffic flow on public roadways.</p> <p>Additionally, this is also a requirement in the UDO for properties in the Economic Development Districts because it is good planning practice.</p>
8.	6.6.3 (A)(5)	On all corner lots, no vehicular openings shall be located closer than 60 feet from the point of intersection of the street right-of-way lines.	<p>This proposed standard helps to maintain traffic safety and flow near intersections. Additionally, current DOT practice for securing driveway permits also requires this distance, for the stated reasons.</p>
9.	6.6.3 (A)(6)	Entrances/exits shall not exceed 36 feet in width measured at the property line; however, in instances where parking lots serve tractor/trailer traffic, the driveway entrance/exit may be increased to 40 feet in width	<p>This proposed standard ensures that driveway points are delineated which avoids situations of the entire street frontage being used to pull into and out of a property, which can result in safety hazards. It helps to improve traffic flow and safety on the roadway. Additionally, current DOT practice for securing driveway permits also requires these widths, for the stated reasons.</p>

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
10.	6.6.3 (A)(7)	Exits for parking facilities containing more than 36 parking spaces shall contain holding lanes for left-turning and right-turning traffic unless the Planning Director determines that due to the physical features of a site, holding lanes would be unsafe and should not be required.	This proposed standard provides an area for vehicle queuing/"stacking" for vehicles waiting to exit a site. The purpose is to improve traffic flow and safety.

**Efland Interstate Overlay District**

Easy Ref. No.	Section Number in UDO Revisions	Proposed Standard	Explanation / Rationale
11.	6.6.3 (A)(8)	<p><u>Shared Access</u></p> <p>(a) In order to manage access on Mount Willing Road, developments subject to this Section, fronting on Mount Willing Road, and located contiguous to one another shall provide shared access.</p> <p>(i) Owners of contiguous parcels subject to this Section shall execute reciprocal easement agreements between the separate property owners and have the same recorded in the Office of the Orange County Register of Deeds prior to the issuance of a Zoning Compliance Permit. The easement agreement shall be sufficient to allow for the development of a private service road or driveway to channel access from Mount Willing Road to each property. Figure 6.6.2.A.3 shows an example of the shared access.</p> <p>(ii) Developments subject to this Section, fronting on Mount Willing Road, and not contiguous to other similarly situated development shall be required to designate stub outs to adjoining properties on the site plan so that shared access can be developed if and when the adjacent property is developed in either a manner which subjects it to this Section or if individual curb cut for a single-family detached residential land use is deemed to be a traffic safety hazard by the County and NCDOT.</p>	<p>The purpose of these requirements is to eventually provide a service/frontage road to serve properties along Mt. Willing Road. Doing so will minimize the number of access points on Mt. Willing Road, which helps to preserve roadway capacity and has a positive effect on traffic flow and safety. The Figure referenced in (i) is part of the existing Efland-Cheeks Overlay District section and is:</p> <div data-bbox="1165 630 1894 1107" style="border: 1px solid black; padding: 10px;"> <p><b>Figure 6.6.2.A.3: Shared Access</b></p> <p>The diagram illustrates a layout for shared access. At the top, a horizontal line represents 'Hwy 70'. Below it, a 'Service Street' runs horizontally. A 'Shared Driveway' is shown as a blue arrow pointing from the Service Street to a 'Cut' in the Highway 70. Below the Service Street, several rectangular shapes represent 'Non-residential Developments Within Pre-defined Commercial Areas of Highway 70'. Green 'X' marks are placed along the boundaries of these developments, indicating potential access points or easement locations.</p> </div> <p>The technique being suggested here (easements as parcels are developed or redeveloped) is a way to achieve better traffic management facilities (such as frontage roads) in areas that are already developed and/or where insufficient roadways exist to serve traffic volumes.</p>

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
12.	6.6.3 (A)(9)	All driveway entrances must have an approved NCDOT driveway permit and must be paved to NCDOT standards from the edge of the existing roadway pavement to the existing right-of-way limit on the interior of the property.	This is an existing DOT requirement and is included in an attempt to be comprehensive about what the development requirements in the area are.
13.	6.6.3 (A)(10)	<p><u>Pedestrian Circulation</u></p> <p>(a) Unless deemed unnecessary by the Planning Director during site plan review, large projects, defined in (b), shall provide an internal pedestrian circulation system, owned and maintained by the property owner. The system shall provide pedestrian walkways to outparcels and also within any large parking areas.</p> <p>(b) For the purposes of this subsection, a large project is defined as one located on 5 or more acres or proposing more than 50,000 square feet of building area. A large parking area is one containing parking for 100 or more vehicles.</p>	This standard ensures that larger projects provide pedestrian walkways so that pedestrians can safely traverse a large parking area or safely walk between the various portions of a large development such as a shopping center or apartment complex.

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
14.	6.6.3 (B)(1) (B) is "Landscaping and Buffering"	In lieu of the requirements outlined in Section 6.8 of this Ordinance, the following standards shall apply: (1) There shall be a minimum ten feet wide vegetative buffer along all rights-of-ways comprised of vegetation that complements surrounding plantings and which includes trees planted in accordance with Section 6.8 where possible.	The buffering requirements in Section 6.8 can be difficult or impossible to achieve on the smaller sized lots that exist in the Efland area. This standard is a lessening of existing requirements in order to make development easier and more in keeping with an "urban village" atmosphere. Since most of the County's jurisdiction consists of parcels of property measured in acres, not square feet, and is intended to remain rural in character, the current regulations are tailored to larger parcels and ensuring a rural character. In areas of the county where water and sewer service is available, or expected to become available, the development regulations must be tailored to the smaller sized lots that are normally a result of urban services (such as water and sewer systems) being provided.
15.	6.6.3 (B)(2)	In lieu of the requirements outlined in Section 6.8 of this Ordinance, the following standards shall apply: (2) There shall be a minimum 15 feet wide vegetative buffer along all common property lines separating non-residential and residential land uses. The required plantings shall be in accordance with those required for Buffer Yards Type A outlined within Section 6.8 of this Ordinance.	Same explanation as for "Easy Reference Number" 14 immediately above.

<b>Efland Interstate Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
16.	6.6.3 (B)(3)	In lieu of the requirements outlined in Section 6.8 of this Ordinance, the following standards shall apply: (3) There shall be a minimum eight feet wide landscaped strip along all property lines separating non-residential uses from non-residential uses. The landscaped strip shall be comprised of vegetation that forms a semi-opaque intermittent visual obstruction from the ground to a height of at least 15 feet. Joint use agreements between adjacent property owners for shared ingress/egress and/or parking may result in a waiver regarding the exact location(s) of the required buffers.	Same explanation as for “Easy Reference Number” 14 above.
17.	6.6.3 (B)(4)	The provisions of this subsection do not waive the buffer requirements found in Section 6.6.5 (Major Transportation Corridor).	For properties subject to the MTC, the buffer requirements for the MTC continue to apply. For informational purposes, the required buffer width along the interstates is 100 feet with limited breaks allowed. Buffers can be comprised of existing wooded areas or plantings, depending on the conditions of a specific site.
18.	6.6.3 (C)(1) “Architectural Design Standards”	In addition to the requirements in Section 6.5 (Architectural Design Standards), the national prototype architectural styles of chain businesses shall be altered as necessary to complement the surrounding area.	The standards in Section 6.5 are requirements that all development projects must meet. The requirement that chain businesses alter their basic prototype architectural style is a measure to help protect the unique character of Efland and ensure it does not end up looking like “Anyplace, U.S.A.” This idea is directly from the Efland-Mebane Small Area Plan.
19.	6.6.3 (C)(2)	Drive-through facilities on non-residential uses are allowable in this area.	This standard is included to make it clear that drive-throughs on non-residential development are allowable in the Efland Interstate overlay district. It is included because drive-throughs are prohibited in the Efland Village overlay district.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
20.	4.6.3 (B)(1)	In lieu of the front setback required in Article 3, the minimum front yard setback for properties fronting on U.S. Highway 70 shall be 30-feet.	Because a variety of zoning districts could be applied along Highway 70, and the various zoning districts have differing front setback requirements, this standard will allow all parcels along Highway 70 to adhere to the same setback (30-feet). A standard such as this is considered to be a good design principle so that the street frontage has a more cohesive look and “feel.” Setbacks are one of the defining factors that affect the appearance of an area and affect people’s perceptions of how “relatable” an area is.
21.	4.6.3 (B)(2)	In lieu of the front setback required in Article 3, the front yard setback for parcels located in the overlay district but not fronting on U.S. Highway 70 shall be in keeping with the front setback provided by adjacent uses.	Because a variety of zoning districts could be applied in the village overlay district and the zoning districts have differing front setback requirements, this standard would require that new development adhere to the setbacks of adjacent existing uses. A standard such as this is considered to be a good design principle so that the street frontage has a more cohesive look and “feel.” Setbacks are one of the defining factors that affect the appearance of an area and affect people’s perceptions of how “relatable” an area is.
22.	4.6.3 (B)(3)	The minimum side and rear setback shall be the width of the required Land Use Buffer (Section 6.8.6) or the setback required in Article 3, whichever is less, but in no case shall be less than 10-feet.	This proposed standard allows the side and rear property line setbacks to match the buffer required on a parcel, so long as a 10-foot minimum is maintained. This is a lessening from the existing regulations that apply in this area. This standard will make the smaller parcels found in the area more developable and also will lead to a more village style of development than is found in areas of the county that do not have water & sewer services.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
23.	4.6.3 (B)(4)	Where applicable, the front yard setback shall be measured from any future right-of-way as designated on the Orange County Comprehensive Transportation Plan.	At this time, the County does not have a Comprehensive Transportation Plan but anticipates developing one in the future in order to serve future roadway/transportation needs. If a parcel in the proposed overlay district area is affected by the future plan, it makes good planning and development sense to have buildings setback appropriately from anticipated future roads. This both minimizes the chance that a building would have to be removed due to the need for a new road and ensures buildings are setback far enough from any future roads so that you don't end up with a situation of having a building immediately adjacent to the roadway right-of-way line and no longer having a front yard for that parcel.
24.	4.6.3 (B)(5)	Although a portion of the Efland Village Overlay District is within the Major Transportation Corridor (MTC) Overlay District, the requirements of the MTC do not apply. The parcels are included in the MTC only because they fall within the prescribed distance criteria but do not fall under any existing requirements pertaining to the MTC.	This information allows users of the UDO to understand that they do not have to research the requirements of the MTC because no parcels in the proposed village overlay district fall under the requirements of the MTC, even though they are shown as being part of the MTC on the Zoning Atlas.
25.	4.6.3 (B)(6)	If Building Height Limitation modifications are pursued in accordance with Section 6.2.2(A), in no case shall building height exceed 40 feet.	Section 6.2.2(A) potentially allows buildings up to 75-feet in height in the County's jurisdiction if additional setbacks are provided. Because buildings this tall exceed most people's idea of a "village" atmosphere, this proposed standard caps building heights at 40 feet, which normally translates to a building up to 3 stories in height.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
26.	4.6.3(C)(1)	No fences shall be permitted in the front yard of lots, other than those used for single-family detached residential purposes, unless a demonstrated need can be shown.	This is an aesthetic design principle that would disallow fences in the front yard of new development (except single-family residential) unless an applicant can demonstrate that their project needs a fence in the front yard. The idea behind the design principle is that “wall-to-wall” front yard fences (e.g., if many parcels on a street has one) tend to visually lead to the feeling of walled-off compounds, which is generally not the idea of a village-like atmosphere.
27.	4.6.3(C)(2)	Chain link or similar fencing shall not be permitted for uses other than single-family detached residential.	The idea behind this proposed standard deals with the aesthetics of chain link fencing, especially if it were to be used by many parcels on a given street. The standard would apply only to new development and single-family residential uses (both new and existing) <u>would</u> be able to use chain link fencing.

**Efland Village Overlay District**

Easy Ref. No.	Section Number in UDO Revisions	Proposed Standard	Explanation / Rationale
28.	6.6.4 (A)(1) "Circulation and Connectivity"	<p><u>Shared Access for Properties Fronting on U.S. Highway 70</u></p> <p>(a) In order to manage access on U.S. Highway 70, developments subject to this Section, fronting on U.S. Highway 70, and located contiguous to one another shall provide shared access.</p> <p>(i) Owners of contiguous parcels subject to this Section shall execute reciprocal easement agreements between the separate property owners and have the same recorded in the Office of the Orange County Register of Deeds prior to the issuance of a Zoning Compliance Permit. The easement agreement shall be sufficient to allow for the development of a private service road or driveway to channel access from <del>Mount Willing Road</del> <b>U.S. Highway 70</b><sup>1</sup> to each property. Figure 6.6.2.A.3 shows an example of the shared access.</p> <p>(ii) Developments subject to this Section, fronting on U.S. Highway 70, and not contiguous to other similarly situated development shall be required to designate stub outs to adjoining properties on the site plan so that shared access can be developed if and when the adjacent property is developed in either a manner which subjects it to this Section or if individual curb cut for a single-family detached residential land use is deemed to be a traffic safety hazard by the County and NCDOT.</p>	See "Easy Reference Number" 11 for explanation and diagram.

<sup>1</sup> Correct cut-and-paste error.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
29.	6.6.4 (A)(2)	In order to manage access on public streets, a site shall be permitted no more than one entrance and exit point unless justified by site configuration, trip generation, and traffic conditions, including the need for separate service and visitor/employee vehicular access, and/or one-way traffic movement.	See “Easy Reference Number” 6 for explanation.
30.	6.6.4 (A)(3)	Intra-site accessibility shall be provided. Vehicles shall not be required to enter the public street in order to move from one area to another on the same site.	See “Easy Reference Number” 7 for explanation.
31.	6.6.4 (A)(4)	On all corner lots, no vehicular openings shall be located closer than 60 feet from the point of intersection of the street right-of-way lines.	See “Easy Reference Number” 8 for explanation.
32.	6.6.4 (A)(5)	Entrances/exits shall not exceed 36 feet in width measured at the property line; however, in instances where parking lots serve tractor/trailer traffic, the driveway entrance/exit may be increased to 40 feet in width.	See “Easy Reference Number” 9 for explanation.
33.	6.6.4 (A)(6)	Exits for parking facilities containing more than 36 parking spaces shall contain holding lanes for left-turning and right-turning traffic unless the Planning Director determines that due to the physical features of a site, holding lanes would be unsafe and should not be required.	See “Easy Reference Number” 10 for explanation.
34.	6.6.4 (A)(7)	All driveway entrances must have an approved NCDOT driveway permit and must be paved to NCDOT standards from the edge of the existing roadway pavement to the existing right-of-way limit on the interior of the property.	See “Easy Reference Number” 12 for explanation.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
35.	6.6.4 (A)(8)	<p><u>Pedestrian Circulation</u></p> <p>(a) Unless deemed unnecessary by the Planning Director during site plan review, large projects, defined in (b), shall provide an internal pedestrian circulation system, owned and maintained by the property owner. The system shall provide pedestrian walkways to outparcels and also within any large parking areas.</p> <p>(b) For the purposes of this subsection, a large project is defined as one located on 2 or more acres or proposing more than 15,000 square feet of building area. A large parking area is one containing parking for 50 or more vehicles.</p>	<p>See “Easy Reference Number” 13 for explanation.</p> <p><u>Note:</u> The addition of this standard in the Efland Village overlay district is the only change from the version of the amendments that were presented at the November 2012 quarterly public hearing. It was added in response to a comment made at the November 2012 hearing.</p>
36.	6.6.4 (B)(1) “Outdoor Storage of Materials Prohibited”	All outside storage of materials on lots other than those used for single-family detached residential purposes is prohibited.	This standard is to address aesthetic concerns about outdoor storage of materials in a “village” area where lots are smaller and, therefore, buildings are closer together.
37.	6.6.4 (B)(2)	This prohibition includes the storage of goods or materials which are not an integral part of the use of the property and which are not obviously for sale.	This standard attempts to make clearer that outdoor storage is not allowed unless the materials are an integral part of the use of the property or they are for sale. So, for instance, a garden center <u>could</u> store/display plants and bags of fertilizer, or mounds of compost.
38.	6.6.4 (B)(3)	This prohibition does not include the storage of materials where the primary use of the property includes the outside display of goods for sale such as automobiles, boats, mobile homes, etc., and the materials stored outside are for sale.	This standard explicitly allows the outdoor display of merchandise on uses such as in the case of a car dealership or used car lot.

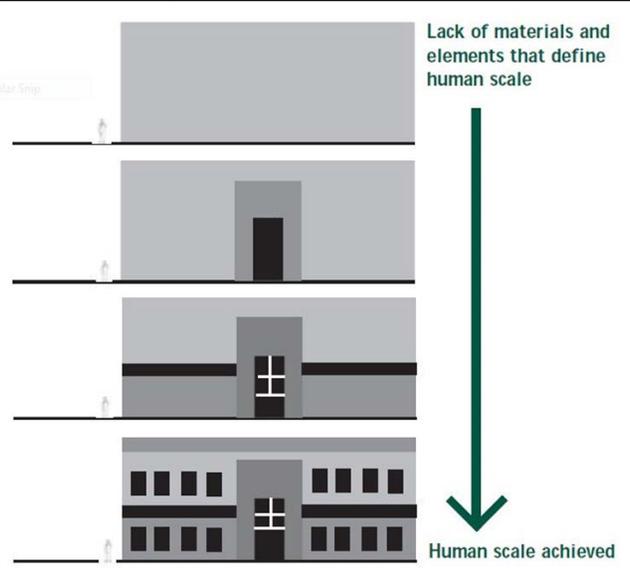
<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
39.	6.6.4 (C)(1) “Landscaping and Buffering”	<p>In lieu of the requirements outlined in Section 6.8 of this Ordinance, the following standards shall apply:</p> <p>(1) There shall be a minimum ten feet wide vegetative buffer along all rights-of-ways comprised of vegetation that complements surrounding plantings and which includes trees planted in accordance with Section 6.8 where possible.</p> <p>(a) Parcels fronting on U.S. Highway 70 shall provide buffer plantings in accordance with those required for Buffer Yards Type A outlined within Section 6.8 of this Ordinance.</p>	<p>See “Easy Reference Number” 14 for explanation.</p> <p><u>Note:</u> Buffer Yard Type A is a 20-foot wide planted strip (there are 4 different options for specific plant materials). See Table 6.8.6.F in the UDO for additional information. This is a lessening of the type of buffer currently required along Highway 70. The type of buffer required depends on the zoning of the subject property but the proposed lessening of the required buffer reflects the proposed standardized setback requirement for properties along Highway 70 (see “easy Reference Number” 20) and is more in keeping with a village atmosphere than current requirements reflect.</p>
40.	6.6.4 (C)(2)	<p>In lieu of the requirements outlined in Section 6.8 of this Ordinance, the following standards shall apply:</p> <p>(2) There shall be a minimum 15 feet wide vegetative buffer along all common property lines separating uses subject to the requirements of this overlay district and single family detached residential land uses. The required plantings shall be in accordance with those required for Buffer Yards Type A outlined within Section 6.8 of this Ordinance.</p>	<p>See “Easy Reference Number” 14 for explanation.</p>

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
41.	6.6.4 (C)(3)	In lieu of the requirements outlined in Section 6.8 of this Ordinance, the following standards shall apply: (3) There shall be a minimum eight feet wide landscaped strip along all property lines separating non-residential uses from non-residential uses. The landscaped strip shall be comprised of vegetation that forms a semi-opaque intermittent visual obstruction from the ground to a height of at least 15 feet. Joint use agreements between adjacent property owners for shared ingress/egress and/or parking may result in a waiver regarding the exact location(s) of the required buffers.	See “Easy Reference Number” 14 for explanation.
42.	6.6.4 (C)(4)	Although portions of the Efland Village Overlay District are also within the Major Transportation Corridor Overlay District, the buffer requirements found in Section 6.6.5 (Major Transportation Corridor) do not apply since said section applies only to properties that abut the interstate.	This information is required so that users of the UDO will know that they do not have to consult the MTC requirements for projects proposed in the Efland Village Overlay District.
43.	6.6.4 (D)(1) “Parking Lot Design”	Up to 15% of the required parking spaces may be located in the front yard. The remainder of the required parking spaces shall be located at the side or rear of the structure.	This standard addresses the aesthetic concern of having a “sea of asphalt” at the front (street-side) of a building. The location of parking areas greatly affects the look and feel of an area. This standard is included in order to achieve a village atmosphere.
44.	6.6.4 (D)(2)	Shared parking areas shall be encouraged for contiguous non-residential land uses, in accordance with Section 6.9 of this Ordinance.	This standard attempts to encourage shared parking among contiguous uses, if they meet the requirements of Section 6.9 of the UDO (which addresses distance requirements and peak usage time). The idea is to both limit the amount of impervious surface in the area and address the visual impacts that parking areas can cause in urban/suburban areas.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
45.	6.6.4 (D)(3)	Parking areas with spaces in excess of 110% of the minimum parking spaces required, per Section 6.9 of this Ordinance, shall not be permitted.	This standard puts a cap on the number of parking spaces a use may provide. It is an attempt to both limit the amount of impervious surface in the area and address the visual impacts that parking areas can cause in urban/suburban areas.
46.	6.6.4 (D)(4)	Interior landscaping of the parking lots shall be provided in accordance with Section 6.8 of this Ordinance.	This standard is included to direct users of the UDO to another existing, relevant section of the UDO that pertains to landscaping of parking areas.
47.	6.6.4 (E)(1) "Signage"	Signage shall conform to all requirements within Section 6.12 of this Ordinance.	This standard directs users to an existing, relevant section of the UDO that regulates signage.
48.	6.6.4 (E)(2)	Only monument style signs that do not exceed six feet in height are permitted within the Efland Village Overlay District <u>unless the sign is considered a wall or window sign.</u>	<p>This standard addresses concerns about the visual impacts signs can have on an area, especially in urban/suburban areas. The <u>underlined text</u> was not part of the public hearing materials but is suggested to be added to make it clear that businesses can still have wall or window signs. The 6-foot height limit is an existing limit on these types of signs.</p> <p>The idea is to ensure that the Efland Village overlay district is provided with the type of signage many people associate with a village atmosphere.</p> <p>See the UDO "Definitions" section ("Signs") for definitions and visuals of the various types of signs.</p>
49.	6.6.4 (E)(3)	Pole signs are not permitted.	This standard addresses concerns about the visual impacts signs can have on an area, especially in urban/suburban areas. The idea is to ensure that the Efland Village overlay district is provided with the type of signage many people associate with a village atmosphere.

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
50.	6.6.4 (F)(1) “Architectural Design Standards”	<p>In addition to the requirements in Section 6.5 (Architectural Design Standards), the following design standards shall apply:</p> <p><u>(1) Corporate Franchise Architecture</u></p> <p>(a) Under no circumstances shall modern corporate franchise building design be permitted.</p> <p>(b) Franchise or 'chain' businesses desiring to locate in the Efland Village Overlay District shall be required to design the building in accordance with these guidelines.</p> <p>(c) For purposes of this Sub-Section, "modern corporate franchise building design" means a building design that is trademarked, branded, or easily identified with a particular chain or corporation and is ubiquitous in nature.</p>	<p>The standards in Section 6.5 are requirements that all development projects must meet. Disallowing corporate franchise building design in the Efland Village overlay district is a measure to help protect the unique character of Efland and ensure it does not end up looking like “Anyplace, U.S.A.” This idea is directly from the Efland-Mebane Small Area Plan.</p> <p>This standard does not mean that chains cannot locate in the Efland Village overlay district area; it means that chains wishing to do so must locate in a building designed to blend with the area. There are many examples across the country of chain businesses locating in buildings designed to complement the area in which they are located instead of the businesses’ typical building design.</p>
51.	6.6.4 (F)(2)	The principal building shall be oriented facing towards the fronting street.	This standard implements a good design principle of having the front of a building actually face the street (as opposed to facing sideways or backwards, which is sometimes done to face the parking lot instead of the community in which the building is located). Orientation of buildings is a factor in the “look and feel” of an area and affects how people relate to an area.
52.	6.6.4 (F)(3)(a) (Building Access)	A functional doorway for public or direct-entry access into a building shall be provided from the fronting street.	<p>This standard implements a good design principle of having a functional doorway facing the street. Design details such as this are a factor in the “look and feel” of an area and affect how people relate to an area.</p> <p>The standard does not prohibit a building from having additional entrances facing elsewhere (such as towards a parking lot).</p>

**Efland Village Overlay District**

Easy Ref. No.	Section Number in UDO Revisions	Proposed Standard	Explanation / Rationale
53.	6.6.4 (F)(3)(b)	Additional entrances to a building may be provided.	The standard makes it clear that a building can have more entrances that face elsewhere (such as towards a parking lot).
54.	6.6.4 (F)(4)(a)	Buildings shall be designed to contribute to a human scale. Large expanses of blank walls shall be avoided and fenestration (the arrangement, proportioning, and design of windows and doors in a building) shall be provided in such a way that a building is relatable to humans and does not overpower the area.	<p>The design principle of human scale is an important aspect of urban design and affects how people relate to a building and area. The following diagram illustrates the concept of human scale:</p> <p style="text-align: center;"><b>Example of Human Scale</b></p>  <p style="text-align: right;">Lack of materials and elements that define human scale</p> <p style="text-align: right;">Human scale achieved</p> <p><i>This series of diagrams illustrates how architectural elements and materials can break a massive building down to a human scale.</i></p>

<b>Efland Village Overlay District</b>			
<b>Easy Ref. No.</b>	<b>Section Number in UDO Revisions</b>	<b>Proposed Standard</b>	<b>Explanation / Rationale</b>
55.	6.6.4 (F)(5)	Drive-through facilities are prohibited on all non-residential uses.	This standard prohibits drive-through facilities in the Efland Village overlay district. The idea is from the Efland-Mebane Small Area Plan and the intent is to channel uses that generally wish to provide drive-throughs to other areas of the planning area covered by the small area plan, namely to locations closer to the interstate. Uses with drive-through facilities tend to have a large impact on traffic volumes and many governments attempt to encourage the location of buildings with drive-throughs to areas that can better accommodate the traffic.
56.	6.6.4 (F)(6)	Mirrored glass is prohibited.	Mirrored glass as a building material is not considered appropriate for the Efland Village overlay district and it would not blend well with existing uses. Additionally, mirrored glass tends to cause glare problems so it is discouraged as a building material for the village area.

**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2014

**Action Agenda  
Item No.**   C.2  

**SUBJECT:** 2030 Comprehensive Plan Future Land Use Map Amendment – Related to  
Town of Hillsborough Extraterritorial Jurisdiction (ETJ) Relinquishment

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**DEPARTMENT:** Planning and Inspections

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

Yes

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**ATTACHMENT(S):**

1. Comprehensive Plan/Future Land Use Map and UDO Amendment Outline Form (CP and Zoning 2013-02)
2. Joint Resolution Amending the Hillsborough-Orange Interlocal Land Management Agreement
3. Notification Materials

**INFORMATION CONTACT: (919)**

Tom Altieri, Planning, 245-2575  
Craig Benedict, Planning, 245-2592

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**PURPOSE:** To hold a public hearing on a County initiated amendment to the 2030 Comprehensive Plan Land Use Element Map affecting approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This amendment assigns County land use classifications to properties that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ), which is to become effective October 1, 2014. This item is companion to Action Agenda Item No. C.3, "Zoning Atlas Amendment."

**BACKGROUND:** Through a previous joint planning process with Orange County, the Town of Hillsborough identified an Urban Service Area outside of which municipal services, such as public water or sewer, will not be provided. To establish consistency with the Urban Service Area, the Town is adjusting its ETJ boundary to exclude any properties located outside its intended area for urban services. Please see Section B of Attachment 1 for relevant information.

The "Amendment Outline Form" (Attachment 1) for these amendments was approved by the BOCC at its November 19, 2013 regular meeting.

In May of this year, the BOCC and Hillsborough Town Board approved a resolution (Attachment 2) amending a 2009 agreement to reflect the intent to continue coordination with Hillsborough to relinquish some areas of its ETJ but to end the ETJ expansion process that had been initiated.

Properties are to be classified to County Future Land Use Land Use Classifications, which in this case includes: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts). **A map showing the proposed Future Land Use Classifications is provided in Attachment 1.**

### **Notification Procedural Requirements**

In accordance with Section 2.3.6 of the Unified Development Ordinance, the public hearing for this item was advertised consistent with the requirements of the Ordinance. Legal ads were placed in two newspapers of general circulation in the County for two (2) successive weeks; notices were mailed to affected property owners and property owners within 500-feet of affected properties; and signs were posted in the affected area. Attachment 3 includes the following:

- Affected property owner notification letter (22 properties)
- Notification postcards (5.5" x 8.5") for property owners within 500-feet of affected properties (150 properties)

**FINANCIAL IMPACT:** See Sections C.3 of Attachment 1.

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

1. Receive the proposal to amend the Comprehensive Plan Future Land Use Map.
2. Conduct the Public Hearing and accept public, BOCC, and Planning Board comment on the proposed amendments.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the County Board of Commissioners in time for the **November 6, 2014** BOCC regular meeting.
4. Adjourn the public hearing until **November 6, 2014** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

# COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE CP and Zoning-2013-02

## Town of Hillsborough/Orange County Interlocal Agreement Implementation – Adjustment of Hillsborough Extraterritorial Jurisdiction (ETJ) and Application of County Future Land Use Map Classifications and Zoning

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### A. AMENDMENT TYPE

#### Map Amendments (Also see maps attached at end)

- Future Land Use Map:
  - From: Town of Hillsborough Land Use Classification
  - To: Agricultural Residential (Portions to include Watershed Critical Area and Resource Protection Area overlays)
- Zoning Map:
  - From: Town of Hillsborough Zoning
  - To: AR Agricultural Residential and PID Public Interest District (Portions to include Watershed Protection Overlay Districts)
- Other: To address Town of Hillsborough Extraterritorial Jurisdiction (ETJ) retraction

#### Text Amendments

- Comprehensive Plan Text:  
Section(s):
- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval ProcessesSection(s):
- Other:

### B. RATIONALE

**1. Purpose/Mission**

Continue the implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009) through adjustment of the Town’s Extra Territorial Jurisdiction (abandonment of some existing ETJ).

**2. Analysis**

As required under Sections 2.3.9 and 2.8.5 of the Orange County Unified Development Ordinance, the Planning Director is required to: *‘cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners’*. In analyzing this proposal, the following information is offered:

- a. Staff has been authorized by the Board of County Commissioners to pursue implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014).
- b. This amendment is consistent with land use goals and objectives of the 2030 Comprehensive Plan.
- c. The request for the amendment has been deemed complete in accordance with the requirements of Sections 2.3 and 2.8 and of the Unified Development Ordinance.
- d. The proposed Future Land Use Classifications and zoning districts are consistent and compatible with those of the surrounding area and in general, are of a very low density residential and conservation minded nature.

Proposed Changes

2030 Comprehensive Plan Future Land Use Map Amendment - Properties are to be classified to County Land Use Classifications, which in these cases include: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts). The Parcel Identification Numbers (PIN) of the twenty-two parcels included in this amendment are:

9864212218	9864294255	9864165305	9854989358
9864111534	9864012864	9864175152	9864135926
9864015589	9864074274	9864210925	9864111926
9864122219	9864028637	9864312586	9864155705
9864124872	9864138329	9864319480	
9864224688	9864069297	9854980353	

Zoning Atlas Amendment - Properties are to be zoned to County zoning districts, which in these cases include: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area). The Parcel Identification Numbers (PIN) of the twenty-two parcels included in this amendment are:

9864212218	9864294255	9864165305	9854989358
9864111534	9864012864	9864175152	9864135926
9864015589	9864074274	9864210925	9864111926

9864122219	9864028637	9864312586	9864155705
9864124872	9864138329	9864319480	
9864224688	9864069297	9854980353	

Maps depicting the proposed Land Use Classifications and zoning districts are provided immediately following this amendment outline form.

Background

Town of Hillsborough Initiation - Orange County received a letter in September 2013 conveying Town Board action and adoption of a resolution indicating its interest in releasing areas west of town from its Extraterritorial Jurisdiction (ETJ) and requesting jurisdiction over areas defined in the Interlocal Land Management Agreement. Coordination between the respective staffs was also requested to begin identifying the required steps and to process the adjustments.

Joint Information Meeting - A Town of Hillsborough/Orange County Joint Information Meeting was held January 9, 2014 to help inform property owners of the process, implications, and answer questions. Over 50 residents attended the meeting, including some BOCC and Town Board representatives. Nearly all attendees were owners of property within the areas proposed to be added to the ETJ.

Joint BOCC and Hillsborough Town Board Meeting:

At a February 27, 2014 Joint Meeting, the Boards received an update on the process and outreach from staff. Following discussion between the boards, it was informally concluded that due to feedback received from the public, changes in State annexation law, and achievement of the vision articulated by the Agreement, both parties agreed to consider stopping ETJ expansion and formally consider a joint resolution amending the Agreement to that effect.

Joint Resolution Amending the Hillsborough-Orange Interlocal Land Management Agreement for the Central Orange Coordinated Area – At its meeting on May 8, 2014, the BOCC adopted a resolution amending the Interlocal Agreement to reflect the intent to continue coordination with Hillsborough to relinquish some areas of its Extraterritorial Jurisdiction (ETJ), as defined in the Agreement, back to the County and end the ETJ expansion process. The Hillsborough Town Board followed suit at its meeting on May 12, 2014.

Town of Hillsborough Public Hearing - The Town of Hillsborough held a public hearing on July 17, 2014 for relinquishing the respective properties from its ETJ. There were no public comments conveyed and no discussion among board members. Subsequently, on August 21, 2014 the Town’s Planning Board unanimously recommended approval of the ETJ adjustment as proposed. At its meeting on September 8, 2014, the Hillsborough Town Board is expected to approve the ETJ adjustment to become effective on October 1, 2014. The effective date was selected to allow Orange County sufficient time to process its Future Land Use Map and zoning atlas amendments within 60-days, consistent with State law.

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

**Land Use Goal 1:** Fiscally and environmentally responsible, sustainable growth, consistent with the provision of adequate services and facilities and a high quality of life.

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.

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

Objective LU-6.1:

Undertake a comprehensive effort to inform and involve the citizens of Orange County in the land use planning process.

Objective LU-6.2:

Maintain a cooperative joint planning process among the County municipalities and those organizations responsible for the provision of water and sewer services to guide the extension of service in accordance with the Comprehensive Plan, the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Land Use Plan, and the policies of the municipalities.

**4. New Statutes and Rules**

N/A

## C. PROCESS

**1. TIMEFRAME/MILESTONES/DEADLINES**

- a. BOCC Authorization to Proceed

November 19, 2013

- b. BOCC Public Hearing

September 8, 2014

- c. BOCC Updates/Checkpoints

May 8, 2014 – Adopted Joint resolution amending Interlocal Agreement  
June 17, 2014 – Approved Legal Ad for public hearing

- d. Other

### Summary of Timeline and Key Steps

## **Adjustment of Hillsborough Extraterritorial Jurisdiction (ETJ) and Application of County Land Use Element Map Classifications and Zoning**

### 2013

September 9	Town adopted resolution of intent
November 19	BOCC authorization to proceed
December	Preparation of public outreach and notification materials (i.e. ETJ Q&A document and maps)

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October 8	Orange County Planning Board recommendation
November 6	BOCC adoption of Future Land Use and Zoning designations

## **2. PUBLIC INVOLVEMENT PROGRAM**

**Mission/Scope:** Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements. Additionally, staff held a Joint Public Information Meeting on January 9, 2014 to explain the process and its implications to the public and property owners in affected areas. Property owners were notified of the Joint Public Information Meeting, as well as the May 8, 2014 BOCC meeting for consideration of the joint resolution amending the Interlocal Agreement, via First Class Mail.

a. Planning Board Review:

October 8, 2014

b. Advisory Boards:

c. Local Government Review:  
July 17, 2014 Town of Hillsborough  
Public Hearing (No public comments  
offered)

September 8, 2014 Town of  
Hillsborough action (To become  
effective October 1, 2014)

August 21, 2014 Town Planning  
Board Recommendation for approval  
(Unanimous)

d. Notice Requirements

This item was included in the Quarterly Public Hearing legal ad; notices were mailed to affected property owners and property owners within 500-feet of affected properties; and signs were posted in the affected area. The Town of Hillsborough had additional legal ad and notification responsibilities consistent with State law for its actions to relinquish portions of the Town's ETJ.

e. Outreach:

- General Public: Joint Public Information Meeting January 9, 2014
- Small Area Plan Workgroup:
- Other:

**3. FISCAL IMPACT**

Existing Planning staff will accomplish the work required to coordinate with Town of Hillsborough staff on its ETJ adjustment and application of County Future Land Use Classifications and Zoning to areas removed from the Town's ETJ. The required legal ad and first class mail notices were paid with Departmental funds already budgeted for this purpose.

**D. AMENDMENT IMPLICATIONS**

See Sections B.1 and C. 2. Of this Amendment Outline.

**E. SPECIFIC AMENDMENT LANGUAGE**

N/A

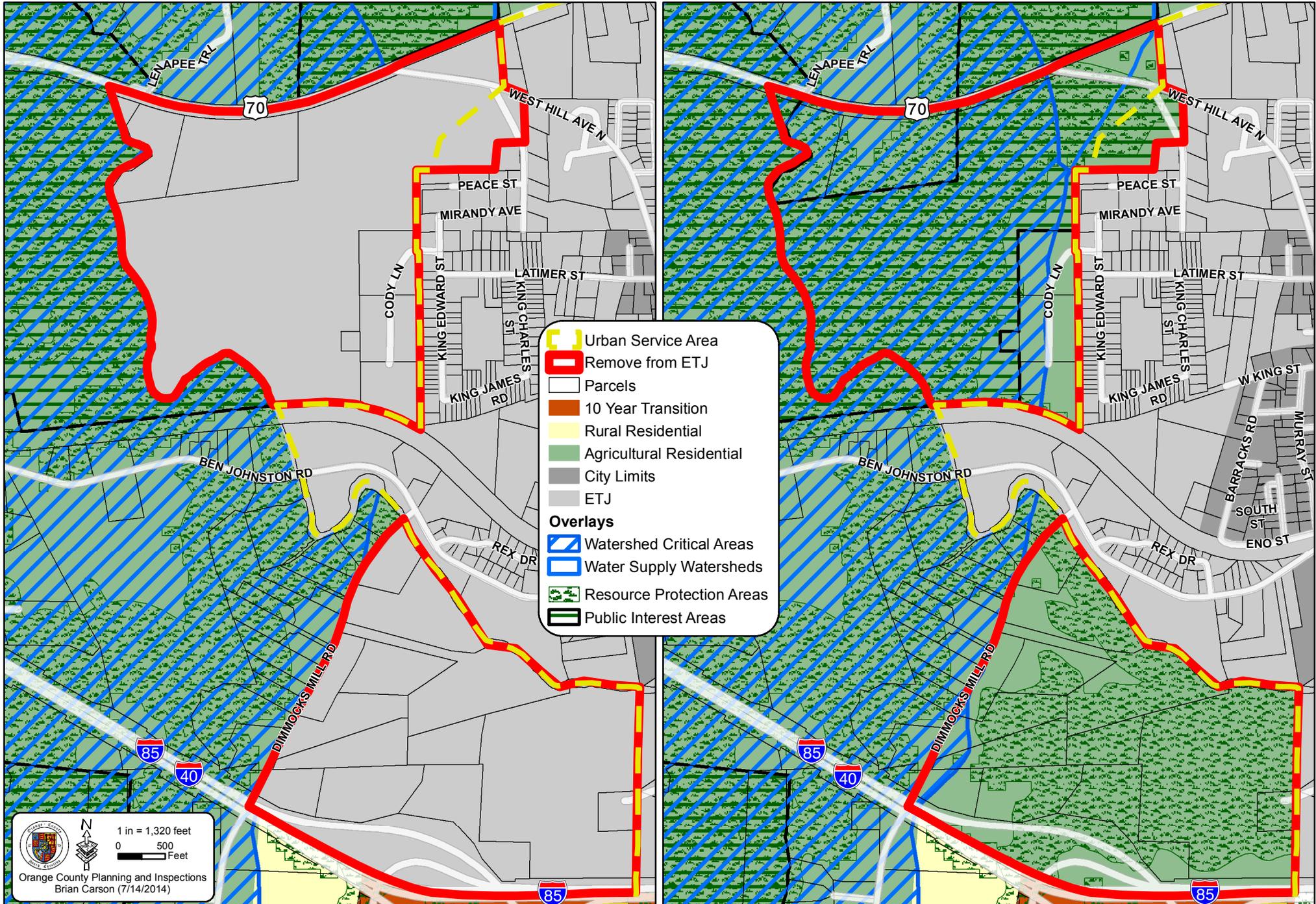
**Primary Staff Contact:**

Tom Altieri, AICP  
Planning Department  
(919) 245-2579  
taltieri@orangecountync.gov

# Assignment of County Land Use Classifications to Areas Removed from Hillsborough ETJ

## Current Future Land Use Map

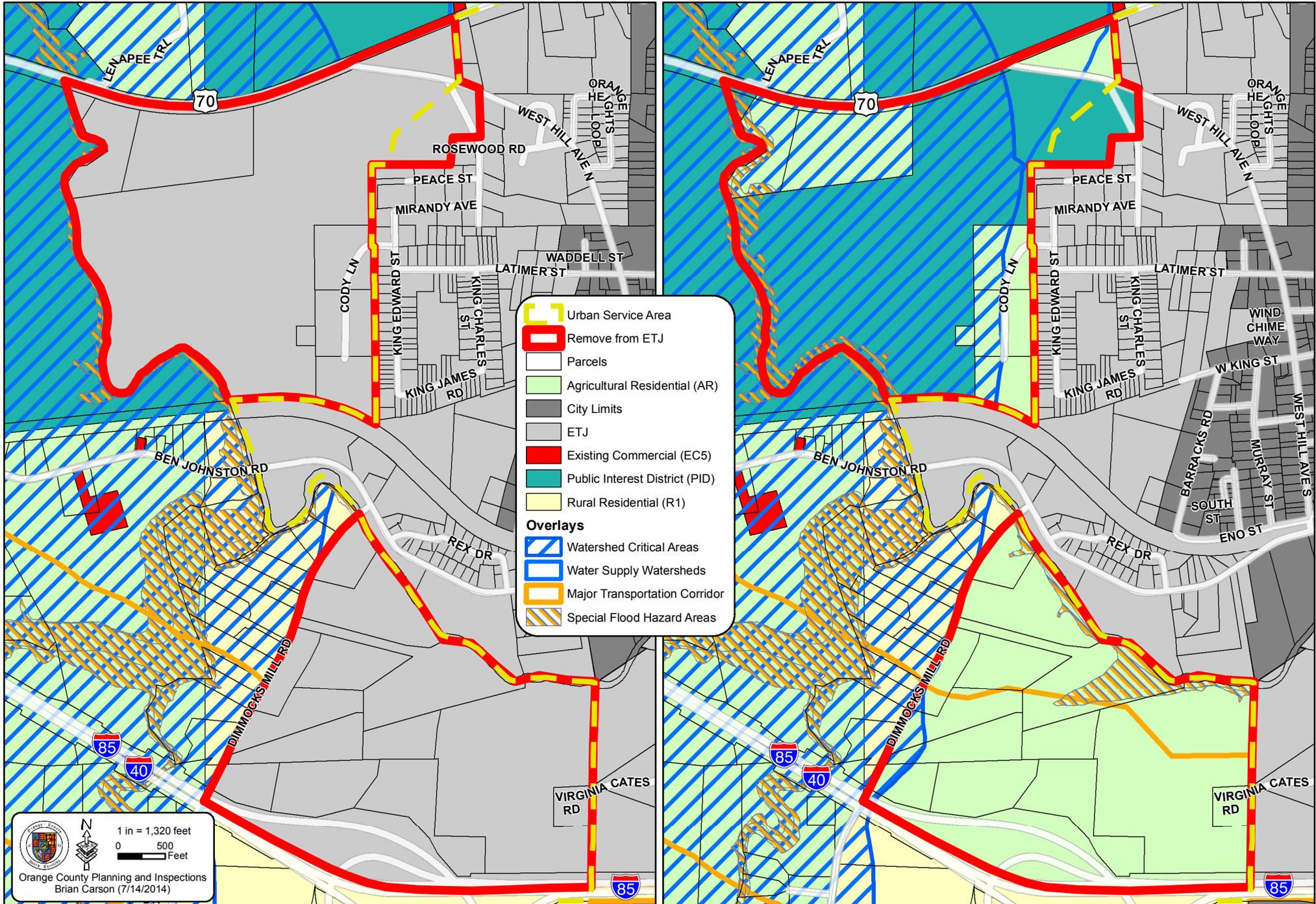
## Proposed Future Land Use Map



# Assignment of County Zoning to Areas Removed from Hillsborough ETJ

## Current Zoning Map

## Proposed Zoning Map



**JOINT RESOLUTION AMENDING THE HILLSBOROUGH-ORANGE INTERLOCAL  
LAND MANAGEMENT AGREEMENT FOR  
THE CENTRAL ORANGE COORDINATED AREA**

**WHEREAS**, in December 2009 the Town of Hillsborough and Orange County entered into the Hillsborough-Orange Interlocal Land Management Agreement (the "Agreement") pursuant to which, *inter alia*, the Town of Hillsborough ("the Town") and Orange County (the "County") agreed to establish a method of coordinated and comprehensive planning for an area identified in the Agreement as the "Central Orange Coordinated Area" ("COCA");

**WHEREAS**, the Town and County have memorialized the Urban Services Boundary by amending the Water and Sewer Boundary agreement in 2009 to reflect the Town's primary service area;

**WHEREAS**, North Carolina General Statutes related to annexation procedures have changed since the Agreement was adopted, which place further limitations on the ability to annex without the consent of property owners;

**WHEREAS**, adding predominately developed properties into the town's ETJ would provide little to no benefit to the impacted property owners or the town;

**WHEREAS**, the vision articulated by the Agreement has been achieved and a Joint Future Land Use Plan for areas within the Town's Urban Services Boundary was adopted by both parties;

**WHEREAS**, the Town and County boards met and discussed the concept of stopping the process to expand the Town's ETJ and need to independently consider resolutions to this affect; and

**WHEREAS**, staff has notified all affected property owners of the boards intentions to consider resolutions and the date and time of the meeting each board would be considering.

**NOW THEREFORE BE IT RESOLVED** that the parties agree to cease implementation of the Agreement at completion of Section 2.1, Adoption of Joint Land Use Plan, with the exception of the following additional steps:

The town will proceed with releasing approximately 400 acres from the ETJ to align the ETJ with the Urban Services Boundary on the west side of town and amend its zoning map;

Orange County will amend its Future Land Use Map of the 2030 Comprehensive Plan, as well as its zoning map, to include these areas in its jurisdiction; and

Orange County will consider amending its 2030 Comprehensive Plan to make any necessary references to the Joint Future Land Use Plan for areas within the Town's Urban Services Boundary (and amendments thereto).

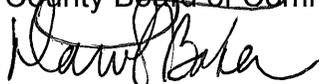
The Agreement otherwise remains in effect for its remaining effective period (20-years and may thereafter be renewed).

**Adopted by Orange County:**

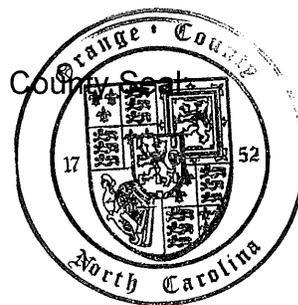
This 8<sup>th</sup> day of May, 2014.



Barry Jacobs, Chair  
Orange County Board of Commissioners

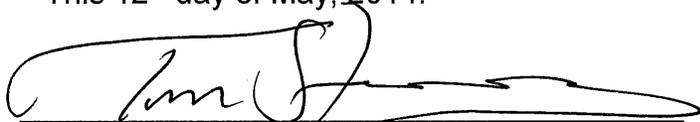


Donna Baker  
Clerk to the Orange County Board of  
Commissioners

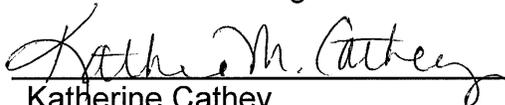


**Adopted by the Town of Hillsborough:**

This 12<sup>th</sup> day of May, 2014.



Tom Stevens, Mayor  
Town of Hillsborough



Katherine Cathey  
Town Clerk



**ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT**  
**Craig N. Benedict, AICP, Director**

**Administration**  
**(919) 245-2575**  
**(919) 644-3002 (FAX)**  
**www.co.orange.nc.us**



**131 W. Margaret Lane**  
**Suite 201**  
**P O Box 8181**  
**Hillsborough, NC 27278**

August 22, 2014

**NOTICE OF PUBLIC HEARING**  
**2030 Comprehensive Plan – Future Land Use Element Map and Zoning**  
**Amendments**

Dear Property Owner:

This letter is to notify you of an upcoming public hearing pertaining to proposed 2030 Comprehensive Plan Future Land Use Element Map and zoning changes that affect your property. This notification is occurring in accordance with the provisions of Sections 2.3 and 2.8 of the Orange County Unified Development Ordinance.

Through a previous joint planning process with Orange County, the Town of Hillsborough identified an Urban Service Area outside of which municipal services, such as public water or sewer, will not be provided. To establish consistency with the Urban Service Area, the Town is adjusting its Extraterritorial Jurisdiction or "ETJ" boundary to exclude any properties located outside its intended area for urban services. The purpose of this County Future Land Use Map and zoning amendment process is to assign County land use classifications to properties that are to be removed from the Town of Hillsborough ETJ, which is to become effective October 1, 2014. Affected property owners have also received notification from the Town of Hillsborough, as this is a two-step, coordinated process: 1) Town adjusts/reduces its ETJ and with that, its jurisdiction over land use and zoning; and 2) The County applies its Future Land Use Classifications and zoning.

Areas for application of County Future Land Use Classifications and zoning comprise approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. Properties are to be classified to Future Land Use Classifications including: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts); and zoning districts including: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area).

This action does not affect the present use of your property. Due to the proximity of the Eno River, sensitive natural areas, and floodplain, all proposed Future Land Use Classifications and zoning districts listed above are of a very low-density residential, agricultural and preservation nature. No commercial or industrial classifications are proposed (**See Attached Maps**).

The Orange County Board of Commissioners and Planning Board will hold a **Joint Public Hearing** on the proposed amendments on **Monday, September 8, 2014** at 7:00 p.m. at the Whitted Human Services Center located at 300 West Tryon Street in

Hillsborough, North Carolina. Interested persons are invited to address the boards with their comments at this Joint Public Hearing.

If you cannot attend the Joint Public Hearing and have questions about the proposed amendments, you may call Tom Altieri, Comprehensive Planning Supervisor, at (919) 245-2579 during regular business hours.

Sincerely,

Craig N. Benedict, AICP  
Planning Director



Orange County Planning Department  
P.O. Box 8181  
Hillsborough, NC 27278

# NOTICE OF PUBLIC HEARING

Dear Property Owner:

August 22, 2014

This letter is to notify you of an upcoming public hearing pertaining to proposed 2030 Comprehensive Plan Future Land Use Element Map and zoning changes. This notification is occurring in accordance with the provisions of Sections 2.3 and 2.8 of the Orange County Unified Development Ordinance. **You are receiving this notice because you own property located within 500-feet of parcels affected by the proposed amendment.**

**YOUR PROPERTY IS NOT AFFECTED BY THE PROPOSED AMENDMENTS.**

The purpose of this County Future Land Use Map and zoning amendment process is to assign County land use classifications to properties that are to be removed from the Town of Hillsborough ETJ, which is to become effective October 1, 2014. Areas for application of County Future Land Use Classifications and zoning comprise approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. Properties are to be classified to Future Land Use Classifications including: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts); and zoning districts including: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area).

The Orange County Board of Commissioners and Planning Board will hold a **Joint Public Hearing** on the proposed amendments on **Monday, September 8, 2014** at 7:00 p.m. at the Whitted Human Services Center located at 300 West Tryon Street in Hillsborough, North Carolina. Interested persons are invited to address the boards with their comments at this Joint Public Hearing.

Maps and other information regarding the proposed change can be viewed on or shortly after August 25, 2014 at the following website (September 8<sup>th</sup> meeting link): <http://www.co.orange.nc.us/OCCLERKS/agenmenu.asp>

If you are interested but cannot attend the Joint Public Hearing and have questions about the proposed amendments, you may call Tom Altieri, Comprehensive Planning Supervisor, at (919) 245-2579 during regular business hours.

**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2014

**Action Agenda  
Item No. C.3**

**SUBJECT:** Zoning Atlas Amendment – Related to Town of Hillsborough Extraterritorial Jurisdiction (ETJ) Relinquishment

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**DEPARTMENT:** Planning and Inspections

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

Yes

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**ATTACHMENT(S):**

1. Comprehensive Plan/Future Land Use Map and UDO Amendment Outline Form (CP and Zoning 2013-02)
2. Notification Materials

**INFORMATION CONTACT: (919)**

Tom Altieri, Planning, 245-2575  
Craig Benedict, Planning, 245-2592

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**PURPOSE:** To hold a public hearing on a County initiated amendment to the Zoning Atlas affecting approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This amendment assigns County zoning to properties that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ), which is to become effective October 1, 2014. This item is companion to Action Agenda Item No. C.2, “2030 Comprehensive Plan Future Land Use Map Amendment.”

**BACKGROUND:** Please see Section B of Attachment 1 for relevant information.

The “Amendment Outline Form” (Attachment 1) for these amendments was approved by the BOCC at its November 19, 2013 regular meeting.

In May of this year, the BOCC and Hillsborough Town Board approved a resolution amending a 2009 agreement to reflect the intent to continue coordination with Hillsborough to relinquish some areas of its ETJ but to end the ETJ expansion process that had been initiated.

Properties are to be zoned to County zoning districts, which in this case includes: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area). **A map showing the proposed zoning is provided in Attachment 1.**

**Notification Procedural Requirements**

In accordance with Section 2.8.7 of the Unified Development Ordinance, the public hearing for this item was advertised consistent with the requirements of the Ordinance. Legal ads were placed in two newspapers of general circulation in the County for two (2) successive weeks; notices were mailed to affected property owners and property owners within 500-feet of affected properties; and signs were posted in the affected area. Attachment 2 includes the following:

- Affected property owner notification letter (22 properties)
- Notification postcards (5.5" x 8.5") for property owners within 500-feet of affected properties (150 properties)

**FINANCIAL IMPACT:** See Sections C.3 of Attachment 1.

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

1. Receive the proposal to amend the Zoning Atlas.
2. Conduct the Public Hearing and accept public, BOCC, and Planning Board comment on the proposed amendment.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the County Board of Commissioners in time for the **November 6, 2014** BOCC regular meeting.
4. Adjourn the public hearing until **November 6, 2014** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

# COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE CP and Zoning-2013-02

## Town of Hillsborough/Orange County Interlocal Agreement Implementation – Adjustment of Hillsborough Extraterritorial Jurisdiction (ETJ) and Application of County Future Land Use Map Classifications and Zoning

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### A. AMENDMENT TYPE

#### Map Amendments (Also see maps attached at end)

- Future Land Use Map:
  - From: Town of Hillsborough Land Use Classification
  - To: Agricultural Residential (Portions to include Watershed Critical Area and Resource Protection Area overlays)
- Zoning Map:
  - From: Town of Hillsborough Zoning
  - To: AR Agricultural Residential and PID Public Interest District (Portions to include Watershed Protection Overlay Districts)
- Other: To address Town of Hillsborough Extraterritorial Jurisdiction (ETJ) retraction

#### Text Amendments

- Comprehensive Plan Text:  
Section(s):
- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval ProcessesSection(s):
- Other:

### B. RATIONALE

**1. Purpose/Mission**

Continue the implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009) through adjustment of the Town’s Extra Territorial Jurisdiction (abandonment of some existing ETJ).

**2. Analysis**

As required under Sections 2.3.9 and 2.8.5 of the Orange County Unified Development Ordinance, the Planning Director is required to: *‘cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners’*. In analyzing this proposal, the following information is offered:

- a. Staff has been authorized by the Board of County Commissioners to pursue implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014).
- b. This amendment is consistent with land use goals and objectives of the 2030 Comprehensive Plan.
- c. The request for the amendment has been deemed complete in accordance with the requirements of Sections 2.3 and 2.8 and of the Unified Development Ordinance.
- d. The proposed Future Land Use Classifications and zoning districts are consistent and compatible with those of the surrounding area and in general, are of a very low density residential and conservation minded nature.

Proposed Changes

2030 Comprehensive Plan Future Land Use Map Amendment - Properties are to be classified to County Land Use Classifications, which in these cases include: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts). The Parcel Identification Numbers (PIN) of the twenty-two parcels included in this amendment are:

9864212218	9864294255	9864165305	9854989358
9864111534	9864012864	9864175152	9864135926
9864015589	9864074274	9864210925	9864111926
9864122219	9864028637	9864312586	9864155705
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Zoning Atlas Amendment - Properties are to be zoned to County zoning districts, which in these cases include: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area). The Parcel Identification Numbers (PIN) of the twenty-two parcels included in this amendment are:

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**4. New Statutes and Rules**

N/A

**C. PROCESS**

**1. TIMEFRAME/MILESTONES/DEADLINES**

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November 19, 2013

b. BOCC Public Hearing

September 8, 2014

c. BOCC Updates/Checkpoints

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June 17, 2014 – Approved Legal Ad for public hearing

d. Other

### Summary of Timeline and Key Steps

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October 8, 2014

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July 17, 2014 Town of Hillsborough  
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e. Outreach:

- General Public: Joint Public Information Meeting January 9, 2014
- Small Area Plan Workgroup:
- Other:

### 3. **FISCAL IMPACT**

Existing Planning staff will accomplish the work required to coordinate with Town of Hillsborough staff on its ETJ adjustment and application of County Future Land Use Classifications and Zoning to areas removed from the Town's ETJ. The required legal ad and first class mail notices were paid with Departmental funds already budgeted for this purpose.

## D. AMENDMENT IMPLICATIONS

See Sections B.1 and C. 2. Of this Amendment Outline.

## E. SPECIFIC AMENDMENT LANGUAGE

N/A

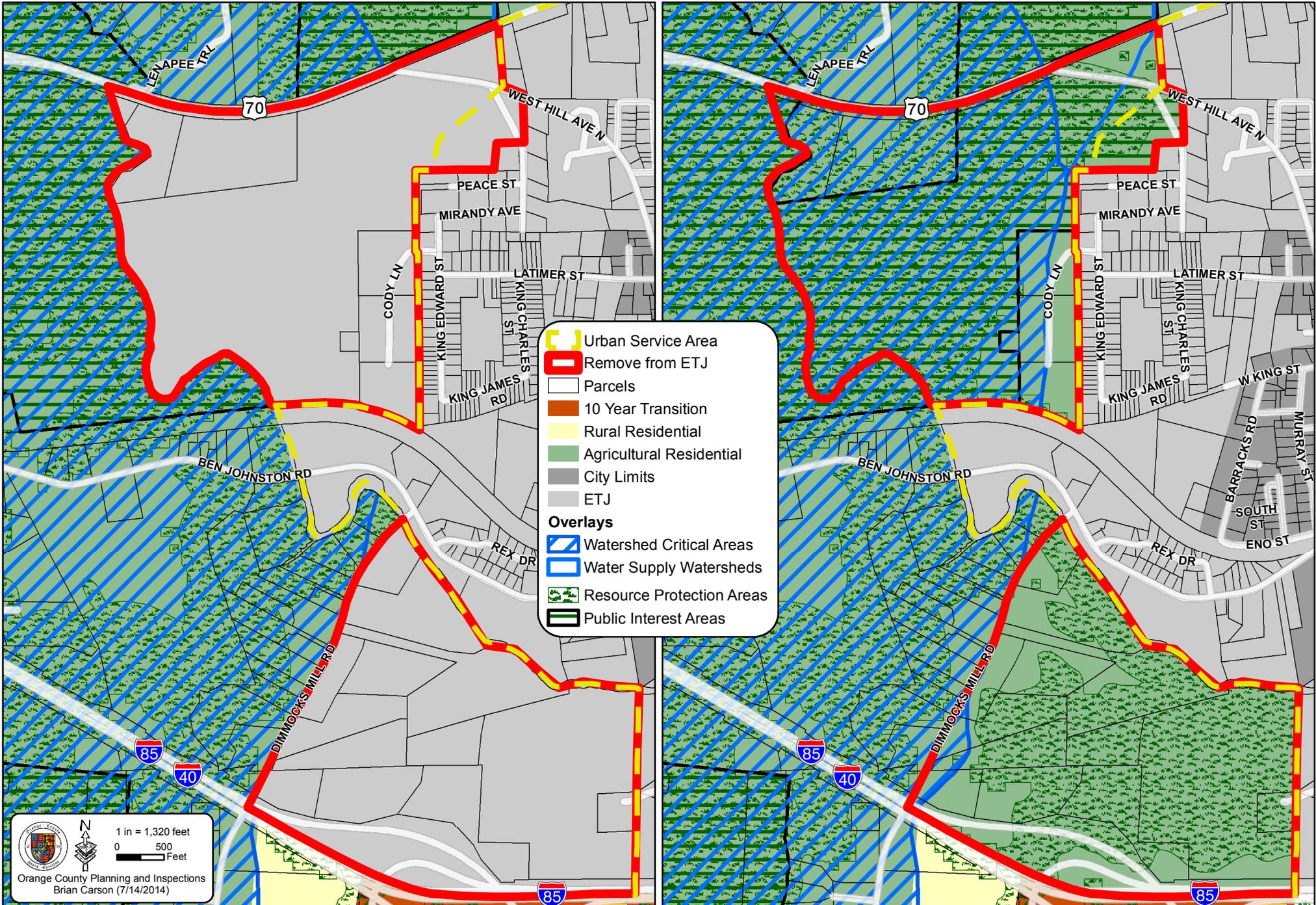
### **Primary Staff Contact:**

Tom Altieri, AICP  
Planning Department  
(919) 245-2579  
taltieri@orangecountync.gov

# Assignment of County Land Use Classifications to Areas Removed from Hillsborough ETJ

## Current Future Land Use Map

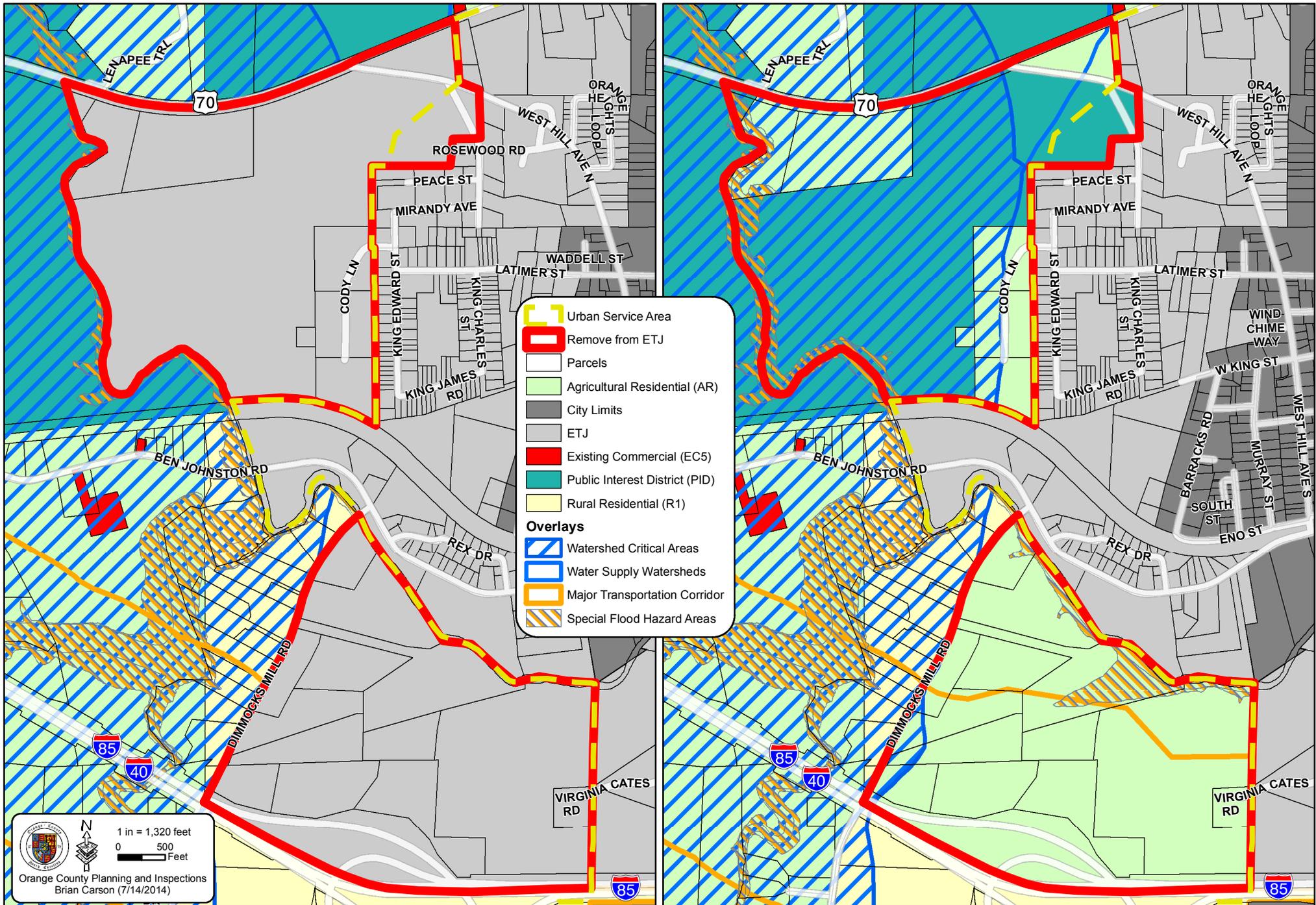
## Proposed Future Land Use Map



# Assignment of County Zoning to Areas Removed from Hillsborough ETJ

## Current Zoning Map

## Proposed Zoning Map



**ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT**  
**Craig N. Benedict, AICP, Director**

**Administration**  
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August 22, 2014

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**Amendments**

Dear Property Owner:

This letter is to notify you of an upcoming public hearing pertaining to proposed 2030 Comprehensive Plan Future Land Use Element Map and zoning changes that affect your property. This notification is occurring in accordance with the provisions of Sections 2.3 and 2.8 of the Orange County Unified Development Ordinance.

Through a previous joint planning process with Orange County, the Town of Hillsborough identified an Urban Service Area outside of which municipal services, such as public water or sewer, will not be provided. To establish consistency with the Urban Service Area, the Town is adjusting its Extraterritorial Jurisdiction or "ETJ" boundary to exclude any properties located outside its intended area for urban services. The purpose of this County Future Land Use Map and zoning amendment process is to assign County land use classifications to properties that are to be removed from the Town of Hillsborough ETJ, which is to become effective October 1, 2014. Affected property owners have also received notification from the Town of Hillsborough, as this is a two-step, coordinated process: 1) Town adjusts/reduces its ETJ and with that, its jurisdiction over land use and zoning; and 2) The County applies its Future Land Use Classifications and zoning.

Areas for application of County Future Land Use Classifications and zoning comprise approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. Properties are to be classified to Future Land Use Classifications including: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts); and zoning districts including: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area).

This action does not affect the present use of your property. Due to the proximity of the Eno River, sensitive natural areas, and floodplain, all proposed Future Land Use Classifications and zoning districts listed above are of a very low-density residential, agricultural and preservation nature. No commercial or industrial classifications are proposed (**See Attached Maps**).

The Orange County Board of Commissioners and Planning Board will hold a **Joint Public Hearing** on the proposed amendments on **Monday, September 8, 2014** at 7:00 p.m. at the Whitted Human Services Center located at 300 West Tryon Street in

Hillsborough, North Carolina. Interested persons are invited to address the boards with their comments at this Joint Public Hearing.

If you cannot attend the Joint Public Hearing and have questions about the proposed amendments, you may call Tom Altieri, Comprehensive Planning Supervisor, at (919) 245-2579 during regular business hours.

Sincerely,

Craig N. Benedict, AICP  
Planning Director



Orange County Planning Department  
P.O. Box 8181  
Hillsborough, NC 27278

# NOTICE OF PUBLIC HEARING

Dear Property Owner:

August 22, 2014

This letter is to notify you of an upcoming public hearing pertaining to proposed 2030 Comprehensive Plan Future Land Use Element Map and zoning changes. This notification is occurring in accordance with the provisions of Sections 2.3 and 2.8 of the Orange County Unified Development Ordinance. **You are receiving this notice because you own property located within 500-feet of parcels affected by the proposed amendment.**

**YOUR PROPERTY IS NOT AFFECTED BY THE PROPOSED AMENDMENTS.**

The purpose of this County Future Land Use Map and zoning amendment process is to assign County land use classifications to properties that are to be removed from the Town of Hillsborough ETJ, which is to become effective October 1, 2014. Areas for application of County Future Land Use Classifications and zoning comprise approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. Properties are to be classified to Future Land Use Classifications including: Agricultural Residential and Public Interest District (portions to include Watershed Protection Overlay Districts); and zoning districts including: Agricultural Residential (AR) and Public Interest District (PID) (portions to include Watershed Protection Overlay Districts and Special Flood Hazard Area).

The Orange County Board of Commissioners and Planning Board will hold a **Joint Public Hearing** on the proposed amendments on **Monday, September 8, 2014** at 7:00 p.m. at the Whitted Human Services Center located at 300 West Tryon Street in Hillsborough, North Carolina. Interested persons are invited to address the boards with their comments at this Joint Public Hearing.

Maps and other information regarding the proposed change can be viewed on or shortly after August 25, 2014 at the following website (September 8<sup>th</sup> meeting link): <http://www.co.orange.nc.us/OCCLERKS/agenmenu.asp>

If you are interested but cannot attend the Joint Public Hearing and have questions about the proposed amendments, you may call Tom Altieri, Comprehensive Planning Supervisor, at (919) 245-2579 during regular business hours.

**ORANGE COUNTY  
BOARD OF COUNTY COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2014

**Action Agenda  
Item No.**   C.4  

**SUBJECT:** Unified Development Ordinance Text Amendment Requiring Neighborhood Information Meetings for Special Use Permit Applications

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**DEPARTMENT:** Planning and Inspections

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

Yes

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**ATTACHMENT(S):**

**INFORMATION CONTACT:**

- |   |  |
|---|--|
| 1. Comprehensive Plan and Unified Development Ordinance Outline Form (UDO & Zoning 2014-12) | Michael D. Harvey, Planner III (919) 245-2597<br>Craig Benedict, Director (919) 245-2575 |
| 2. Proposed UDO Text Amendments   |  |
| 3. Process Review Chart and Timeline  |  |
- 

**PURPOSE:** To hold a public hearing on Planning Director initiated Unified Development Ordinance (UDO) text amendments to require a neighborhood information meeting for all Special Use Permit applications.

**BACKGROUND:** At the May 27, 2014 Quarterly Public Hearing concerns were expressed by BOCC members over the notification process associated with the review of a Special Use Permit (SUP) application. Specifically the question was asked why a Neighborhood Information Meeting (NIM) was not required for all SUP applications.

A NIM is a meeting allowing local property owners/residents to meet with the applicant to hear a brief presentation on the nature of the proposed development. Staff attends the meeting to explain the process by which a given project is reviewed. Currently a NIM is required for major subdivisions, Conditional Use and Conditional Rezoning applications, as well as the development of land uses categorized as being within the 'Government Uses' land use category as detailed with Section 5.2.1 *Table of Permitted Uses* of the UDO.

Staff is proposing to amend the UDO to require a NIM for all SUP applications. The meeting will be held in a minimum of 30 calendar days before the public hearing, where the project is reviewed, in an effort to inform local property owners of the project and provide educational information on the nature of the proceedings.

For those non-SUP items requiring a NIM (i.e. Major Subdivisions, Government Uses), the timeframe for holding the meeting is currently 14 days prior to its review by an advisory board (subdivision) or submittal of an application (government use) for processing. Staff is suggesting a NIM related to a SUP application be held 30 days prior to a public hearing because of the nature of the application (i.e. quasi-judicial) requiring expert testimony.

For additional background please refer to Attachment 1.

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

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

1. Receive the application,
2. Conduct Public Hearing and accept public, BOCC, and Planning Board comments.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the County Board of Commissioners in time for the **November 18, 2014** BOCC regular meeting.
4. Adjourn the public hearing until **November 18, 2014** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

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

UDO / Zoning-2014-12

Require a Neighborhood Information Meeting for all Special Use Permit Applications.

## A. AMENDMENT TYPE

### Map Amendments

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

### Text Amendments

- Comprehensive Plan Text:  
Section(s):
- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes
 Section(s):
- Other:

## B. RATIONALE

### 1. Purpose/Mission

*Development Ordinance Amendments* of the UDO, the Planning Director has initiated text amendment(s) to require a Neighborhood Information Meeting (NIM) be held for all Special Use Permit (SUP) applications prior to the scheduling of a public hearing. The proposal would also modify the timeline for the holding of a NIM for Conditional Use applications.

Originally staff had anticipated amending existing NIM requirements for Conditional Zoning District (CZD) applications, as detailed within Section 2.9.2 (D) of the UDO. Staff determined, however, there was no need to revise existing timelines as CZD applications are not reviewed through the quasi-judicial hearing process (i.e. requiring sworn testimony and competent material evidence) and there was no need to provide additional time to adjacent property owners to understand the review process or prepare for the public hearing.

At the May 27, 2014 Quarterly Public Hearing several BOCC members expressed concern over the lack notification/information on SUP applications in advance of a scheduled public hearing.

The review of SUP applications are carried out in a quasi-judicial process requiring the presentation of sworn, expert, testimony and competent material/substantial evidence by both those in favor and in opposition to a given application. Decisions to approve or deny an application are based on this evidence. Hearsay or unsubstantiated opinions are not sufficient testimony.

Currently, the SUP review process requires adjacent property owners receive written notice of a public hearing, via certified mail, a minimum of 15 days prior to a scheduled public hearing. Given the complexity of the review process the concern is this is insufficient time to allow for adjacent property owners to gather information, or secure the necessary experts, to effectively participate in the review process.

At the public hearing staff recommended amending the existing permit review process for future SUP applications to require the holding of the aforementioned meeting in an effort to inform local property owners of the project and provide educational information on the nature of the proceedings, including detail on what constitutes 'competent material evidence and testimony', and the required findings that have to be made to issue a permit.

## **2. Analysis**

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

The amendments are necessary to ensure Orange County residents and property owners are provided advance notice of submitted SUP applications, have an opportunity to review the project before a scheduled public hearing, obtain an understanding of the required review and approval processes, and have sufficient time to gather information and/or secure experts to aid them in the review of the

project.

Staff hopes to accommodate the NIM within existing review processes/timelines. The worst case scenario, however, is that the current review process will be extended by 30 days to accommodate the meeting.

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

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

### **4. New Statutes and Rules**

N/A

## **C. PROCESS**

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

#### a. BOCC Authorization to Proceed

June 17, 2014

#### b. Quarterly Public Hearing

September 8, 2014

#### c. BOCC Updates/Checkpoints

June 17, 2014 – BOCC members approve the legal advertisement for the September 8, 2014 Quarterly Public Hearing.

*STAFF COMMENT:* the BOCC authorized staff to move forward with the proposed amendments consistent with the timelines identified herein.

July 2, 2014 – Planning Board Ordinance Review Committee (ORC)

*STAFF COMMENT:* the ORC reviewed this item at its July 2, 2014 meeting where the following comments/questions were made:

- Will this increase the cost of a Special Use Permit application?

*STAFF COMMENT:* Yes. The applicant will have to pay for an additional mailing notifying residents of the NIM. Approval of this amendment will require an amendment to the Orange County Fee Schedule to capture this fee.

- How will this amendment impact applications for telecommunication towers?

*STAFF COMMENT:* Currently property owners within 1,000 feet of a

parcel of property where a telecommunication tower is proposed are notified of a balloon test. This test, which occurs anywhere from 6 weeks (Class B application – 75 to 199 ft. tall tower) to 11 weeks (Class A application – 200 ft. and over) prior to a public hearing. The purpose of this test is to show interested parties how the tower will ‘look’ on the property by flying a dirigible at the maximum proposed height of the tower. Staff, who already attends this test, intends to utilize this test as serving as the NIM and will be available to provide information on the process.

Staff will require the applicant to amend the letter notifying applicable parties of the test, which they are already required to send and pay for, that the meeting will also serve the function of reviewing the application review process.

- Who runs the meeting?  
*STAFF COMMENT:* Staff calls the meeting to order to review the application review process and then turns it over to the applicant to discuss the project.

September 8, 2014 – Quarterly Public Hearing with this item on the agenda.  
 November 18, 2014 - Receive Planning Board recommendation.

d. Other

**2. PUBLIC INVOLVEMENT PROGRAM**

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

a. Planning Board Review:

July 2, 2014 – Ordinance Review Committee (ORC).  
 October 8, 2014 – Recommendation

b. Advisory Boards:

N/A

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c. Local Government Review:

Review of the proposal by the Town(s) of Chapel Hill and Carrboro consistent with the Joint Planning Agreement

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(JPA) as the amendment will impact projects in the Rural Buffer. Items were sent on July 31, 2014.

At this time we have received no written comments. During a meeting with representatives of the Town of Carrboro, however, they did not express a concern over the proposal.

_____	_____
_____	_____
_____	_____

d. Notice Requirements

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

e. Outreach:

<input type="checkbox"/> General Public:	
<input type="checkbox"/> Small Area Plan Workgroup:	
<input checked="" type="checkbox"/> Other:	Staff will ask the County's current telecommunication consultant to review and comment on the amendments as they relate to our telecom program.  This review is part of their existing contract with the County and will not result in additional cost.

**3. FISCAL IMPACT**

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

The amendment will require that applicants absorb additional expenditures for advertisement of the NIM (i.e. certified letters) for all SUP projects as well as their attendance. The Orange County Fee Schedule will need to be amended to incorporate these costs.

There will also be an increase in staff workload with respect to preparing, sending out notices, and staffing the NIM potentially impacting Departmental budgetary outlays. Staff is continuing to evaluate workload and needs as the process moves forward.

## D. AMENDMENT IMPLICATIONS

The amendments are in response to concerns related to the processing of SUP applications, specifically a lack of advance notification to local property owners/residents of the project. These amendments are designed to promote additional notification of a SUP project in advance of a scheduled public hearing and provide an opportunity for local residents to comment on a project as well as receive an explanation on the SUP review process.

The amendment will require staff to complete more work in a truncated timeframe and, potentially, reduce the overall review time for a given project. As previously indicated, staff plans to accommodate the NIM within the current review process. There is, however, a distinct possibility review timeframes for SUP applications will be altered by, a minimum, of 30 days.

## E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 2 the proposed language.

### **Primary Staff Contact:**

Michael D. Harvey

Current Planning Supervisor

(919) 245-2597

mharvey@orangecountync.gov

**Amendment Package Notes:**

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text to adopt changes related to the holding of a neighborhood information meeting 30 days prior to a public hearing reviewing a Special Use Permit Application.

Proposed additions/changes to existing UDO text are depicted in red underlined text. Text proposed for deletion is denoted with ~~red strikethrough text~~.

Some of the proposed changes utilize footnotes to provide a brief explanation as to rationale. Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County.

The full UDO is available online at: <http://orangecountync.gov/planning/Ordinances.asp>

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

Please note some text on the following pages has a large “X” through it to denote that these sections are not part of the amendments under consideration. Text with a large “X” is not proposed for deletion or discussing during this item.

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

#### 2.7.4 Staff Review

- (A) The Planning Director shall cause an analysis to be made of the application by qualified representatives of the County and other agencies or officials as appropriate.
- (B) The Planning Director shall submit the analysis to the Board of County Commissioners and the Planning Board, in the case of Class A Special Uses, or the Board of Adjustment, in the case of Class B Special Uses.
- (C) The appropriate Board reviewing the application shall receive and enter the analysis into evidence during the public hearing. The analysis shall be subject to examination by all interested parties and the Planning Director shall be subject to cross-examination regarding the analysis.
- (D) The Planning Director shall not make a recommendation on the general findings detailed within Section 5.3 of this Ordinance

#### 2.7.5 Neighborhood Information Meeting

- (A) Before a Public Hearing may be held on an accepted application for a Special Use, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of the meeting is to obtain surrounding property owner input and comments on the proposed development project and allow staff an opportunity to explain the review process associated with the request.<sup>1</sup>
- (B) The applicant shall obtain property owner mailing address information from the Orange County Planning Department, which shall utilize Orange County Land Records data, and

<sup>1</sup> During the review of a Class A Special Use Permit application at the May 27, 2014 Quarterly Public Hearing (QPH) it was suggested there should be a neighborhood information meeting held prior to the public hearing to allow the developer to explain the project to surrounding property owners as well as allow staff to review the process by which Special Use Permits are processed (i.e. quasi-judicial hearing procedures). This amendment will address the concern(s) expressed by BOCC and Planning Board members during the May QPH.

shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a Special Use has been requested.

- (C) The notices shall be mailed a minimum of 14 days prior to the date of the proposed neighborhood information meeting.
- (D) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- (E) The meeting shall be held a minimum of 30 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.<sup>2</sup>
- (F) Neighborhood information meetings for telecommunication facilities shall be held in accordance with the provisions of Section 5.10.8 (B) (2).

**2.7.52.7.6 Notice Requirements for Class A Special Use Permits**

- (A) The Planning Director shall give public notice of the date, time and place of the public hearing to be held to receive comments, testimony and exhibits pertaining to the application for a Special Use.

There are no other substantive amendments to Section 2.7 other than re-numbering. Staff has not included all of the re-numbered sections as part of this review.

Notice shall be published in a newspaper of general circulation in Orange County week for two successive weeks, with the first notice to be published not less than 14 days nor more than 25 days prior to the date of the hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.

- (D) The Planning Director shall post on the affected property a notice of the public hearing at least 10 days prior to the date of said hearing.
- (D) Written notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.

**2.7.62.7.7 Notice Requirements for Class B Special Use Permits**

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

**2.7.72.7.8 Nature of Proceedings**

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

<sup>2</sup> Typically, neighborhood information meetings are required to occur 14 days prior to a public hearing. Staff is recommending 30 days to ensure there is adequate time for adjacent property owners/residents to receive information related to the quasi-judicial review process and secure the necessary experts to argue for/against a specific project.

- (C) Text amendments to this Ordinance for stormwater provisions shall comply with the requirements in effect for any other text amendment.

## SECTION 2.9: CONDITIONAL DISTRICTS

### 2.9.1 Conditional Use District (CUD)

#### (A) Generally

- (1) Any use permitted under the CUD process shall conform to all applicable development regulations for the corresponding general use zoning district as well as any specific development standards outlined within this Ordinance.
- (2) The Board of County Commissioners, in reviewing a CUD application, may impose such reasonable conditions upon approval of a CUD request as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and ensure equitable treatment.
- (3) Only those conditions mutually agreed to by the applicant and the Board of County Commissioners may be imposed on a CUD application.
- (4) Within the Economic Development Districts (EDDs), there are specific uses that require approval of a CUD. These uses are noted on the Table of Permitted Uses – Economic Development Districts (Section 5.2).

#### (B) Applications

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

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

#### (C) Submittal Requirements

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

- ~~(2) 26 copies of the application package required in (1) above shall be submitted by the applicant.~~
- ~~(3) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CUD.~~

**(D) Neighborhood Information Meeting**

- (1) Before a Public Hearing may be held on an accepted application for a CUD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.
- (2) The applicant shall obtain property owner mailing address information from the Orange County ~~Land Records department~~ Planning Department<sup>3</sup> and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a CUD has been requested.
- (3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.
- ~~(4) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.~~<sup>4</sup>
- ~~(4)(5) The Neighborhood Information Meeting shall be held a minimum of 14-30~~<sup>5</sup> days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

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

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

<sup>3</sup> Planning staff already provides this service during the pre-application conference related to a Special Use or Conditional Use project. The proposed amendment is designed to ensure local regulations mirrors current practice.

<sup>4</sup> Staff inadvertently left out the requirement for posting of a sign advertising the neighborhood meeting. This corrects the error.

<sup>5</sup> We are changing the timeframe to 30 days consistent with proposed amendments to Section 2.7 *Special Uses* of the UDO.

- (1) Changes to approved plans and conditions of development shall be treated as changes to the zoning atlas and shall be processed as an amendment to such as contained in Section 2.8.
- (2) The Planning Director may approve minor changes without going through the amendment process. The Planning Director, at his/her discretion, may elect not to allow any proposal as a minor change and will forward the detailed application for changes to the Planning Board and Board of County Commissioners for consideration in accordance with the procedures outlined herein.
- (3) A minor change is one that will not:
  - (a) Alter the basic relationship of the proposed development to adjacent property,
  - (b) Alter the approved land uses,
  - (c) Increase the density or intensity of development, and/or
  - (d) Decrease the off-street parking ratio or reduce the buffer yards provided at the boundary of the site.

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### 2.9.2 Conditional Zoning District (CZD)

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**(A) Generally**

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

**(B) Applications**

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

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

**(C) Submittal Requirements**

- (1) In addition to the CZD application form, an applicant shall also submit the following information:
  - (a) A site plan prepared in accordance with the provisions of Section 2.5 of this Ordinance, except for MPD-CZ applications (see (C)(2) below).
  - (b) A detailed description of the proposed use of property including an outline of the proposed development.
  - (c) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance.
  - (d) The appropriate Environmental Document prepared in accordance with Section 6.16.
  - (e) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.
  - (f) A summary of utility services, including processing of wastewater.
  - (g) A schedule of construction of all elements of the proposal.

~~(h) Any other information identified during the pre-application conference deemed essential to demonstrate the project's compliance with these regulations.~~

- ~~(2) In lieu of the requirements in (1)(a) above, an application for a Master Plan Development (MPD) CZD shall include the requirements in Section 6.7. The requirements of (1)(b) through (1)(h) above are applicable for MPD-CZ applications.~~
- ~~(3) 26 copies of the application package required in (1) and (2) above shall be submitted by the applicant.~~
- ~~(4) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CZD.~~

**(D) Neighborhood Information Meeting<sup>6</sup>**

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

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

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

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

- ~~(1) The Board of County Commissioners shall take action on the application to rezone the property in accordance with the procedures outlined within Section 2.8.~~
- ~~(2) The applicant or the County may recommend that reasonable and appropriate conditions be attached to the approval of the application~~
- ~~(3) Conditions and site-specific standards shall be limited to those that address the conformance of the development to County ordinances, the adopted Comprehensive Plan, or any other relevant plans that address the impacts reasonably expected to be generated by the proposed development. Any such conditions may address:
  - ~~(a) The compatibility of the proposed development with surrounding property,~~~~

<sup>6</sup> Originally staff had anticipated amending this section to require a neighborhood information meeting to be held 30 days prior to a public hearing to review a CZD application. As the review of this type of application does not involve a Special Use Permit and is completed through a legislative review process (i.e. no sworn expert testimony), staff has determined existing review requirements are sufficient.

- (2) Attendees shall include all carriers and tower companies who have either filed applications the previous year or anyone who has expressed an interest in filing an application to construct a telecommunication support facility within the County.
- (3) The County shall notify each party of the date, time, and place of the meeting no later than 30 days prior to the meeting.
- (4) Those individuals/firms intent on submitting development applications are expected to attend the meeting. While a lack of attendance will not prevent the submittal of an application, it will prevent the applicant's ability to participate in the discussions outlining the areas of concentration for the location of telecommunication support structures for that given year.
- (D) Applications for the development of telecommunication support structures shall be processed in accordance with the provisions of this Ordinance.

#### 5.10.4 Existing Wireless Telecommunications Support Structures

- (1) Telecommunications equipment as accessory uses may be placed on existing wireless support structures in accordance with the provisions of this Ordinance.
- (2) Notwithstanding the other provisions of Section 5.10, telecommunications towers in existence as of December 10, 2002, may be replaced with a wireless support structure of equal or less visual impact after approval by the Planning Director. However, if the proposed new wireless support structure would not be consistent with the minimum standards under Section 5.10, replacement must be approved as provided for in this Ordinance.

#### 5.10.5 Wireless Telecommunications Support Structures and Equipment as Principal or Accessory Uses

- (A) Wireless telecommunications support structures shall be permitted as a principal or accessory use in accordance with the Table of Permitted Uses and as follows:
- (1) On property owned by the County or any public entity, except those designated as historic properties or sites, the County may, in its sole discretion as the owner of the property, authorize the application and use of County property after the applicant executes a lease agreement acceptable to the County.
- (2) Wireless telecommunications facilities, as part of existing utility poles shall be permitted as an accessory use. Wireless facilities shall be constructed as part of the existing utility poles or as replacements for the existing utility poles. No freestanding towers constructed exclusively for personal wireless services shall be permitted within utility easements.
- (3) The placement of new wireless telecommunications support structures shall be in accordance with the Table of Permitted Uses, except as permitted in the Master Telecommunications Plan ("Plan") or by Section 5.10.6 of this Ordinance.

#### 5.10.6 Administrative Approval of Certain Telecommunication Facilities

##### (A) Applicability

The following telecommunication facilities may be approved administratively by the Planning Staff provided that all of the provisions contained in Section 5.10 are met:

- (1) New stealth telecommunications wireless support structures up to 75 feet in height that are sufficiently disguised so as to minimize visual impact;
- (2) Any wireless support structure less than 75 feet in height;
- (3) Any wireless support structure less than 200 feet in height located on property that is owned or leased by Orange County; and

- (4) Any wireless support structure less than 200 feet in height on which the owner of such facility permits the County to collocate its wireless facilities on the structure at no charge to the County when the location of such facility is of benefit to the County as determined in the sole discretion of the County.
- (5) A written decision approving or denying an application for administrative approval of a telecommunication facility under this section shall be issued no later than 45 days following the submission of a complete application.
- (6) Collocation applications meeting the following requirements:
  - (a) The proposed additional facility will not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached consistent with Section 2.7.14 of the Ordinance.
  - (b) The proposed additional facility will comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
  - (c) The proposed additional wireless facilities comply with all federal, State, and local safety requirements.
  - (d) The proposed additional facility does not exceed the applicable weight limits for the wireless support structure.

**(B) Submittal Requirements**

All applications for telecommunication facilities that are eligible for administrative approval shall be submitted and reviewed in accordance with the standards of Section 5.10.8 of this Ordinance.

**(C) Neighborhood Information Meeting**<sup>8</sup>

- (1) For all administratively approved wireless support structures, excluding collocations, a neighborhood information meeting shall be scheduled in accordance with the provisions of Section 5.10.8**

**~~5.40.7 Antennas Not Located on Wireless Telecommunications Support Structures~~**

**~~(A) General Standards~~**

- ~~(1) To minimize adverse visual impacts, stealth antenna types shall be preferred. If a non-stealth antenna is proposed, the application shall be required to demonstrate, in a technical manner acceptable to the Planning Director, why the stealth antenna (i.e. an antenna incorporated into the architecture of the building or fully screened from view from sight proximate to the antenna) cannot be used for the particular application. This does not preclude a combination of the various types of antennas.~~
- ~~(2) Antenna dimensions shall be subject to approval by the Planning Director. A statement shall be submitted, prepared by a professional engineer competent to evaluate antenna choices, to certify the technical need for the required dimensions.~~
- ~~(3) Prior to the issuance of a Building Permit by the Inspections Division, the application shall provide evidence that the wireless telecommunication support structure or antennas are in compliance with FAA regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.~~

<sup>8</sup> Staff is adding language to ensure all administratively approved towers will comply with the same neighborhood information meeting requirements as any other regulated wireless support facility.

~~engineer certification statement shall include certification that the structure can support the load superimposed from the wireless support structure. All wireless support structures shall have the capacity to permit multiple users; at a minimum monopole wireless support structures shall be structurally designed to accommodate four users and self-support/lattice or guyed wireless support structures shall, at a minimum accommodate three users.~~

**(B) General Submittal Requirements – Special Use Permits**

In addition to the general submittal requirements detailed herein, and the specific submittal requirements for all Special Use Permit applications detailed within Section 2.7 of this Ordinance, applicants shall be required to adhere to the following:

**(1) Overall Policy and Desired Goals**

The overall policy and desired goals for Special Use Permits for wireless telecommunications support structures shall be promoting and encouraging, wherever possible, the following:

- (a) Alternatives to constructing new wireless support structures, including but not limited to the collocation of wireless telecommunications equipment and mitigating the visual effect of a wireless telecommunication support structure to an extent not commercially impracticable; and
- (b) The placement, height and quantity of wireless telecommunications towers and equipment in such a manner, including but not limited to the use of stealth technology or camouflage techniques, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications support structure, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

**(2) Balloon Test**

- (a) The applicant shall, at least six weeks prior to a Class B Special Use Permit public hearing and at least 11 weeks prior to a Class A Special Use Permit public hearing, conduct a balloon test whereby the applicant shall arrange to fly, or raise upon a temporary mast, a minimum of 10'3" in length, brightly colored red or orange balloon at the maximum height of the proposed new wireless support structure.
- (b) The balloon test shall be flown for at least four consecutive daylight hours starting sometime between 10:00 A.M. and 2:00 P.M. on the dates chosen.
- (c) A notice of the dates (including a second date in case of poor visibility, weather or atmospheric conditions on the initial date), times, and location of the balloon test shall be mailed, by certified mail, return receipt requested, by the applicant, to all persons owning property within 1,000 feet of the subject parcel no less than 14 days in advance of the first test date. The data contained within the office of Orange County Land Records shall be used as the primary source for determining which residents are to receive notice of the balloon tests.

This notice shall also inform local residents that a neighborhood information meeting shall be held the day of the balloon test so that the applicant can explain the proposal and Planning staff, including the

County's telecommunications consultant, can explain the Special Use Permit review process.<sup>9</sup>

- (d) The primary date shall be on a weekend (excluding legal holidays), but to prevent delays in the processing of the application, and in case of poor weather or atmospheric conditions on the initial date, the secondary date may be a weekday.
- (e) The applicant shall inform the County Planning Staff, in writing, of the dates and times of the test at least 14 days in advance.
- (f) The applicant shall also post a sign on the subject property, and directional signs posted at locations to be determined by Planning Staff. The signs shall measure no more than nine square feet in area and no less than four square feet in area, giving the contact information of the County Planning Department, the proposed dates, times, and location of the balloon test. The signs shall be posted to meet the same time limits as provided for in the balloon test notification as stated above.

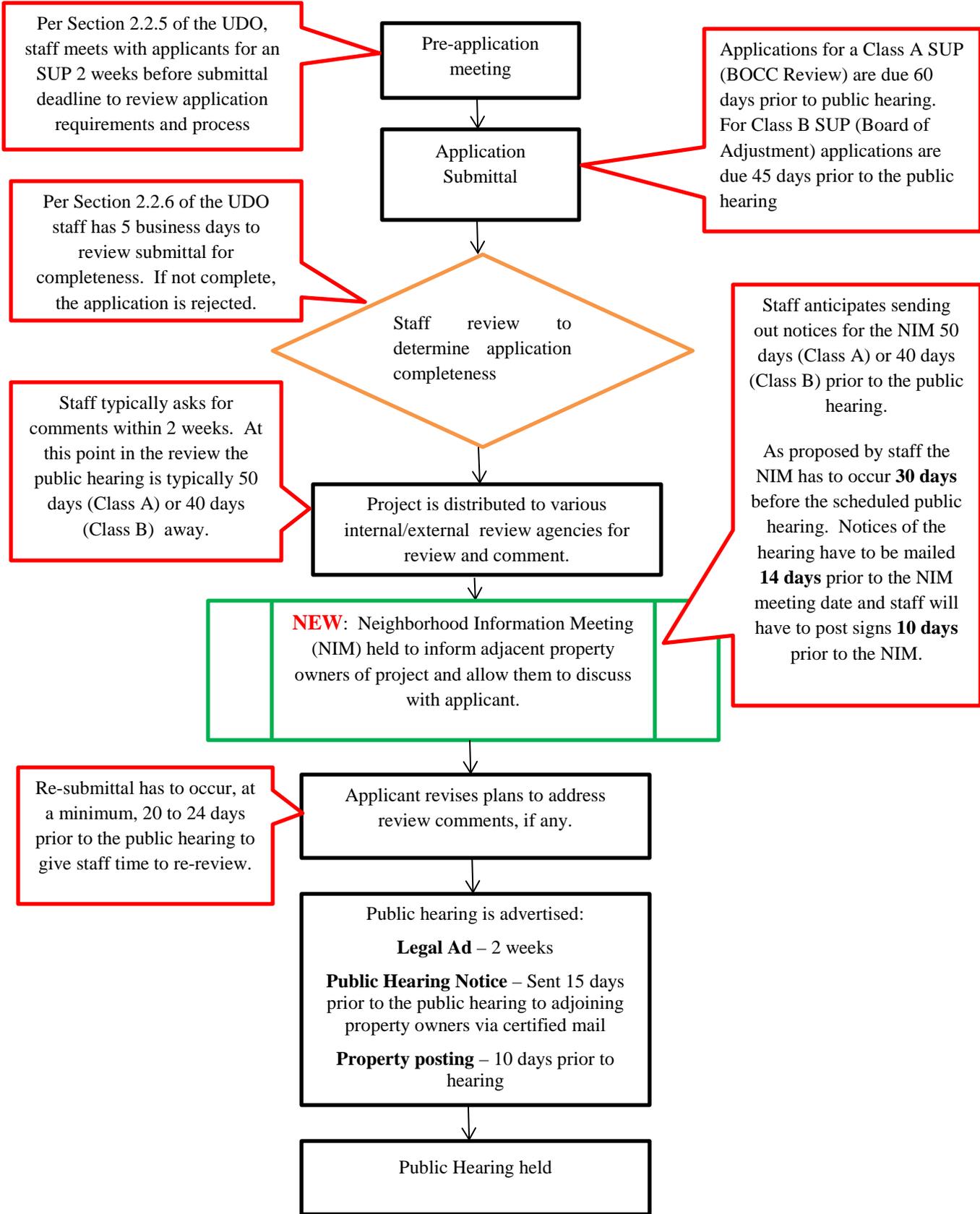
### (3) Submittal Requirements

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

- (a) A site plan showing the following:
  - (i) The entire site (including property boundary lines) and size of all existing structures within 500 feet of the site,
  - (ii) Existing and proposed structures on site,
  - (iii) The fall zone of the tower,
  - (iv) Existing and proposed topography at a contour interval of five feet and
  - (v) Any officially designated floodways and floodplains, or the presence of alluvial soils.
- (b) Plans, and elevations for all proposed structures and descriptions of the color and nature of all exterior material, along with the make, model, and manufacturer of the proposed structure, maximum antenna heights, and power levels.
- (c) A Landscape and Tree Preservation Plan drawn at the same scale as the site plan, showing the existing and proposed trees, shrubs, ground cover and other landscape materials. This plan shall minimize adverse visual effects of wireless telecommunications support structures and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.
- (d) Evidence that the applicant has investigated the possibilities of placing the proposed equipment on an existing wireless support structure. Such evidence shall consist of:
  - (i) A listing of all wireless telecommunications support structures within a two mile radius of the proposed wireless support structure site and a listing of all wireless support structure, utility poles and other structures in the vicinity of the proposed facility.

<sup>9</sup> As we currently require a balloon test be held prior to a public hearing reviewing a telecommunication application, staff believes it is reasonable to hold a neighborhood information meeting at the same time on-site so that interested parties can not only visualize the height of a proposed tower but ask questions related to the review process.

Attachment 3 – Special Use Permit Review Timeline



**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2014

**Action Agenda  
Item No.**   C.5  

**SUBJECT:** Unified Development Ordinance Text Amendment - Public Hearing Process Changes

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**DEPARTMENT:** Planning and Inspections

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

Yes

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**ATTACHMENT(S):**

1. Comprehensive Plan/UDO Amendment Outline Form (UDO/Zoning 2013-07) including Flow Charts of Existing and Proposed Processes
2. Proposed UDO Text Amendments

**INFORMATION CONTACT: (919)**

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

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**PURPOSE:** To hold a public hearing on Planning Director initiated Unified Development Ordinance (UDO) text amendments to change the existing public hearing process for UDO-, Comprehensive Plan-, and Zoning Atlas-related items.

**BACKGROUND:** The intent of the proposed changes is to offer more opportunities for review of development applications or zoning changes and to clarify the process for the various affected parties. Please see Section B of Attachment 1 for relevant information.

The “Amendment Outline Form” (Attachment 1) for these amendments was approved by the BOCC at its October 15, 2013 regular meeting.

**FINANCIAL IMPACT:** Existing staff will complete the necessary work required for this project. Changing the public hearing process is not expected to cause financial impacts (negative or positive). Legal ads and mailed notifications, if required, would have to be sent regardless of the process. Internal work flow, both within the Planning Department and in other County Departments that have involvement with agenda setting, will need to be updated/changed. Initial meetings with these departments have indicated that necessary changes can be accommodated.

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

1. Receive the proposed amendments to the UDO as detailed in this abstract and attachments.
2. Conduct the public hearing and accept public, BOCC, and Planning Board comment on the proposed amendments.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the BOCC in time for the **November 6, 2014** BOCC regular meeting.

4. Adjourn the public hearing until **November 6, 2014** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

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

UDO / Zoning-2013-07  
Changes to Public Hearing Process

## A. AMENDMENT TYPE

**Map Amendments**

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

**Text Amendments**

- Comprehensive Plan Text:  
Section(s):
- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes
 Section(s): 2.1, 2.3, 2.7, 2.8, and 5.10.2.
- Other:

## B. RATIONALE

- **Purpose/Mission**

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

- **Analysis**

As required under Section 2.8.5 of the Unified Development Ordinance, the Planning Director is required to: 'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'. The following information is offered:

The topic of amending the current quarterly public hearing process was brought up as part of the work on "Agricultural Support Enterprises" (ASE) because the pre-2010 ASE work included a different approval process for ASE-related projects. The September 9, 2013 BOCC work session (held at the end of the quarterly public hearing) materials contain more information about this topic: <http://orangecountync.gov/occlerks/130909.pdf>, including staff's concern about having a different review process for only certain projects. The purpose of the work session was to obtain BOCC input/direction on the public hearing process, which staff received. There is not total agreement among BOCC members that the current process should be changed. However, a majority of the BOCC directed staff to bring forward proposed changes for public hearing and consideration.

**Proposed Changes**

The following changes to the public hearing process are being proposed:

- End the quarterly hearings for land use and planning-related matters and instead have the BOCC designate a minimum of 8 meetings per year where Comprehensive Plan, UDO, and Zoning Atlas amendments can be heard. The 8 meetings (minimum) would be designated each Fall when the BOCC approves its meeting schedule for the following calendar year; the public hearing dates could occur in conjunction with any type of meeting on the BOCC calendar (regular, work session, etc.) – it would be at the discretion of the BOCC each year.
  - It should be noted that public hearings dates between the 10<sup>th</sup> and the 20<sup>th</sup> of the month would generally provide the greatest level of efficiency from a timing streamlining standpoint. This is because the Planning Board meets on the first Wednesday of each month (with agenda materials distributed the last Wednesday of each month). Designating public hearing dates mid-month means that applications are not "sitting" waiting for further action, as could happen if the public hearing is held early in the month, and it gives staff time to research any issues that arise at the public hearing, something that is not always possible to do when the hearing occurs late in the month since Planning Board agenda distribution must occur on the last Wednesday of each month.
  - When designating meetings each year, the BOCC may wish to consider designating meetings that are filmed and available on Granicus so that interested people, including Planning Board members, can view the public

hearing. It should be noted that the existing quarterly public hearings are not filmed. It is also Planning staff's understanding from the Clerk's office that the BOCC is considering filming more of its meetings in the future (e.g., work sessions) if funding is available.

- Stop holding the public hearings as joint hearings with the Planning Board. The Planning Board is an advisory board comprised of volunteers and there are sometimes issues of having a quorum of members present for hearings/meetings. A joint hearing cannot occur without a quorum of members from both Boards. If the proposed process is adopted, the Planning Board will provide a recommendation to the BOCC after the public hearing. This would allow Planning Board members to either attend the public hearing or view the hearing on the internet (if available) after the hearing occurs but before the Planning Board meeting in order to hear public comments prior to making a recommendation. The proposed process flow charts of the current process and the proposed process are included at the end of this Form.
  - The September 9, 2013 work session materials included flow charts depicting other possible processes. Staff received fairly strong input at the work session that the Planning Board should make its recommendation after the public hearing, so the proposed amendments have been written to implement this process.
- It should be noted that staff is suggesting that the policy of having the BOCC approve the required legal advertisement would be removed as part of the streamlining effort. If the BOCC decides to continue the policy of approving the legal advertisement as a Consent Agenda item, it should be noted that doing so adds approximately 3 weeks to the front-end of the application deadline date. This is due to agenda deadline dates to have a Consent Agenda item.
  - If the BOCC desires to continue to review the legal advertisement prior to publication, the BOCC may wish to discuss whether it needs to be an item on a Consent Agenda or whether the draft legal advertisement can be circulated to BOCC members via e-mail for comment a few days before publication deadlines.

### Background

As staff indicated at the work session, Orange County's typical review timeframe in recent years (4-5 months from application deadline to BOCC decision) compares favorably to other North Carolina local governments. One of the more significant differences is that most local governments in North Carolina have a monthly public hearing cycle rather than the quarterly cycle Orange County adheres to.

It is also notable that the current process was put into place at least 20 years ago and one of the purposes was so residents who took interest in the types of matters heard at the quarterly hearings would know in which months the hearings occur. Dissemination of information was quite different 20+ years ago when compared to today. The availability of agendas and hearing information on the internet makes it easier for interested persons to keep apprised of matters in which they are interested

whereas 20+ years ago, interested people likely had to obtain hard copies of agendas/materials directly from the County Clerk.

### Agenda Process

Internal processes in the Planning Department, Manager's Office, and Clerk's office will need to be updated if the amendments are adopted. Initial meetings between the departments have indicated that necessary adjustments can be made although it will be a change from existing processes. An example of an internal change is that, in order to meet statutory requirements, the first legal advertisement for the public hearing would run on the same day internal departmental agenda review occurs (generally Wednesday afternoon). The current internal agenda setting process allows items to be "bumped" from agendas if necessary; public hearing items could not be "bumped" without incurring costs of running new legal advertisements and running cancellation ads, if necessary. Additionally, for items that require mailed notifications, Planning staff would likely have already prepared the notifications for mailing by the time agenda review occurs, although the actual mail out is on Friday.

If public hearing dates are chosen that do not correspond to a regular BOCC meeting, for example, holding public hearings on BOCC work session dates, the internal agenda process is different. However, staff would have little ability to remove public hearing items that were filed by published application deadline dates.

The existing practice of isolating UDO/Comprehensive Plan-related items on separate meeting agendas (the quarterly public hearings) likely results in more predictable BOCC regular meetings since some planning-related items can generate a great deal of public interest and comment. However, most items in recent years have not had significant public comment at the quarterly public hearings.

Currently, quarterly public hearing agendas are normally posted to the website at least 10 calendar days prior to the public hearing. If land use public hearings become part of the BOCC agendas, the materials for the public hearing would be posted along with the BOCC agenda (generally 4 calendar days prior to the meeting date).

Orange County's practice of holding quarterly public hearings is fairly unique in North Carolina (staff is aware of only one other local government – the Town of Hillsborough – that limits public hearing dates to only four times per year). Most local governments in North Carolina have at least one meeting per month where planning-related items can be heard (either as part of a regular meeting or as a meeting completely set aside for planning-related items); some have more than one meeting per month. It should also be noted that having more potential public hearing dates per year would likely spread out the same number of items per year over more meetings (e.g., there would be fewer items per hearing date). The number of items Orange County typically hears in a given year likely does not warrant a monthly meeting set aside only for planning-related items since there have been quarterly public hearing dates with only a small number of "easier" items.

It should be noted that, especially for non-government initiated items, it could be undesirable to limit the number of items on any particular agenda if the applicant has

met the application deadline date. Staff's informal polling of local government processes has indicated that most local governments put all applications that were received by the filing deadline on the designated agenda, even if some must get tabled to a future meeting due to time constraints; some will call a special meeting in months that are particularly busy. A small number of local governments limit the number of items that can be placed on any one agenda or informally work with applicants to get permission to place items on a later agenda if the agenda for a particular meeting has gotten very full.

#### Planning Board Involvement

The existing practice of holding a joint public hearing (governing body/Planning Board) is also fairly unique (although the Town of Hillsborough also operates this way). With a joint hearing, a quorum of members of both boards is necessary in order to legitimately hold the hearing. Some local governments have the Planning Board make a recommendation on items prior to the public hearing while other local governments have the Planning Board make a recommendation after the public hearing. Either process can work well, depending on the desires of the local government. If a recommendation is made before the public hearing, the Planning Board focuses its review on the technical merits of an item. If a recommendation is made after the public hearing, the Planning Board's recommendation can take into consideration comments made at the public hearing. BOCC input at the September 9, 2013 work session leaned strongly toward having the Planning Board make its recommendation after the public hearing with access to the content of the public hearing and this is how the proposed amendment has been written.

#### Closure of Public Hearings; Rewording of Agenda Headings

In April 2014, Planning staff became aware that the BOCC may also wish to discuss the current process related to closing public hearings and/or how the closure of public hearings appears on the BOCC agenda. The current process, which has not been proposed for changes at this time, is to keep the public hearing open in order to allow interested persons to submit written comments to the Planning Board and to appear before the Planning Board, so long as the person's oral comments are consistent with their submitted written comments. This has been the process for well over a decade, and possibly since the establishment of zoning in Orange County, because it allows people to address the Planning Board but also ensures that comments made after the oral public hearing are documented and the BOCC is aware of additional comments.

Because the UDO allows written comments to be made after the oral public hearing, the public hearing is held open in order to receive any submitted written comments. Formerly, the public hearing was not necessarily held open to a date-time certain but in the '00s, case law was made in North Carolina which prompted the County Attorney at the time to begin advising the County that public hearings must be adjourned to a specific date/time because failure to do so could result in legal challenges.

If the current process regarding allowing written comments is kept intact, a solution to the potential confusion that might result with a planning-related item being listed on the BOCC agenda under "Public Hearings" but with no additional comment accepted

could be that a new Section is added to the BOCC agenda specifically for planning-related public hearing items. Perhaps “Acceptance of Planning Board Recommendation and Decision on Land Use and Planning-Related Matters,” or similar phrasing, may be appropriate. Since the public hearing process may be changing and “real” planning-related public hearing items (e.g., oral comments accepted) might be listed on the BOCC agenda, it may be even more desirable to add an additional Section to the BOCC agenda to better differentiate oral public hearings from items that are on the agenda to close the public hearing and take action.

Staff has written a document outlining various options for closure of the public hearing. Staff surveyed other jurisdictions in North Carolina to help determine various options for handling the public hearing process. The document is included at the end of this Form.

#### Public Hearings for Legislative vs. Quasi-Judicial Items

The UDO currently makes no distinction between public hearings for legislative items (e.g., rezonings/map amendments and text amendments) and quasi-judicial (e.g., special use permits) items. Because of the nature of quasi-judicial items, public hearings for special use permits can be lengthy. Although the proposed text amendments have been written without distinction between legislative and quasi-judicial matters, it would be possible to change the proposed language to limit quasi-judicial matters to few agendas per year while expanding the number of times per year planning-related legislative items could be considered.

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

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

- **New Statutes and Rules**

N/A

## C. PROCESS

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

#### a. BOCC Authorization to Proceed

October 15, 2013

#### b. Quarterly Public Hearing

February 24, 2014 – postponed to May 27, 2014 QPH due to time constraints at February QPH

May 27, 2014 – postponed to September 8, 2014 QPH due to time constraints at May QPH

c. BOCC Updates/Checkpoints

January 8, 2014 – Planning Board ORC (agenda materials are available to all interested persons)  
February 4, 2014 – approval of legal ad for February quarterly public hearing  
May 8, 2014 – approval of legal ad for May quarterly public hearing  
June 17, 2014 – approval of legal ad for September quarterly public hearing  
November 6, 2014 - receive Planning Board recommendation and make decision

d. Other

\_\_\_\_\_

2. **PUBLIC INVOLVEMENT PROGRAM**

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

a. Planning Board Review:

January 8, 2014 – ORC (Ordinance Review Committee)  
The ORC had minor questions and comments which have been incorporated into the draft materials. The Summary Notes from the ORC meeting have been included at the end of this form.  
October 8, 2014 - recommendation

b. Advisory Boards:

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

c. Local Government Review:

Proposed text amendments were sent to JPA partners (Towns of Chapel Hill and Carrboro) on January 13, 2014 in accordance with the JPA Agreement since any project in the Rural Buffer requiring a public hearing would be subject to any new process. To date, no comments have been received from the JPA partners.

Planning staff has worked, and will continue to work, with the County Clerk and Manager’s Office to ensure the proposed public hearing process will work as smoothly as possible with the processes/systems used by these Departments.

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

d. Notice Requirements

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

e. Outreach:

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

### **3. FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2013-14 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

## **D. AMENDMENT IMPLICATIONS**

If adopted, the amendments would change the existing process used by Orange County to review Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments. See section "B" above for additional information.

## **E. SPECIFIC AMENDMENT LANGUAGE**

See Attachment 2.

### **Primary Staff Contact:**

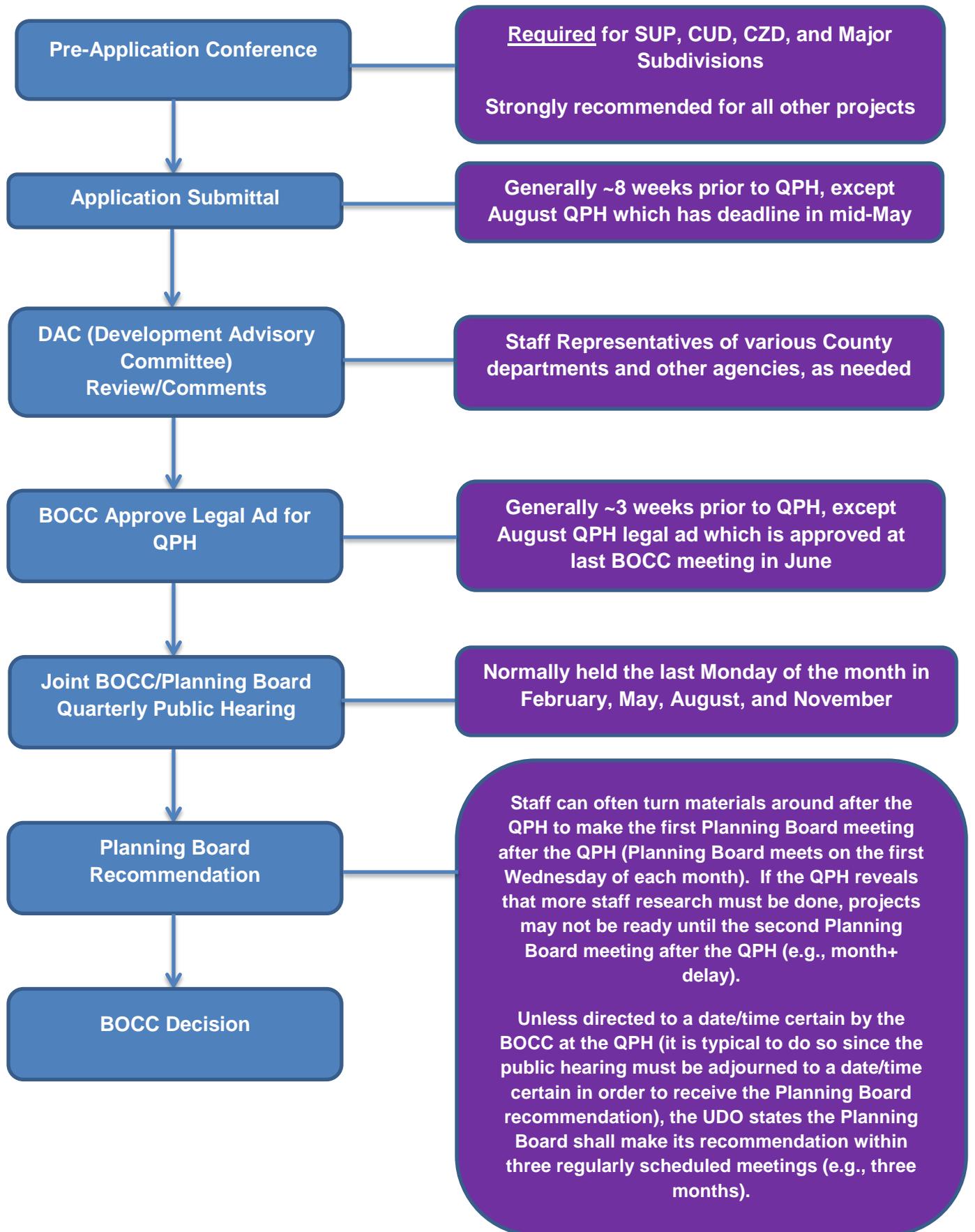
Perdita Holtz, AICP

Planning Department

919-245-2578

pholtz@orangecountync.gov

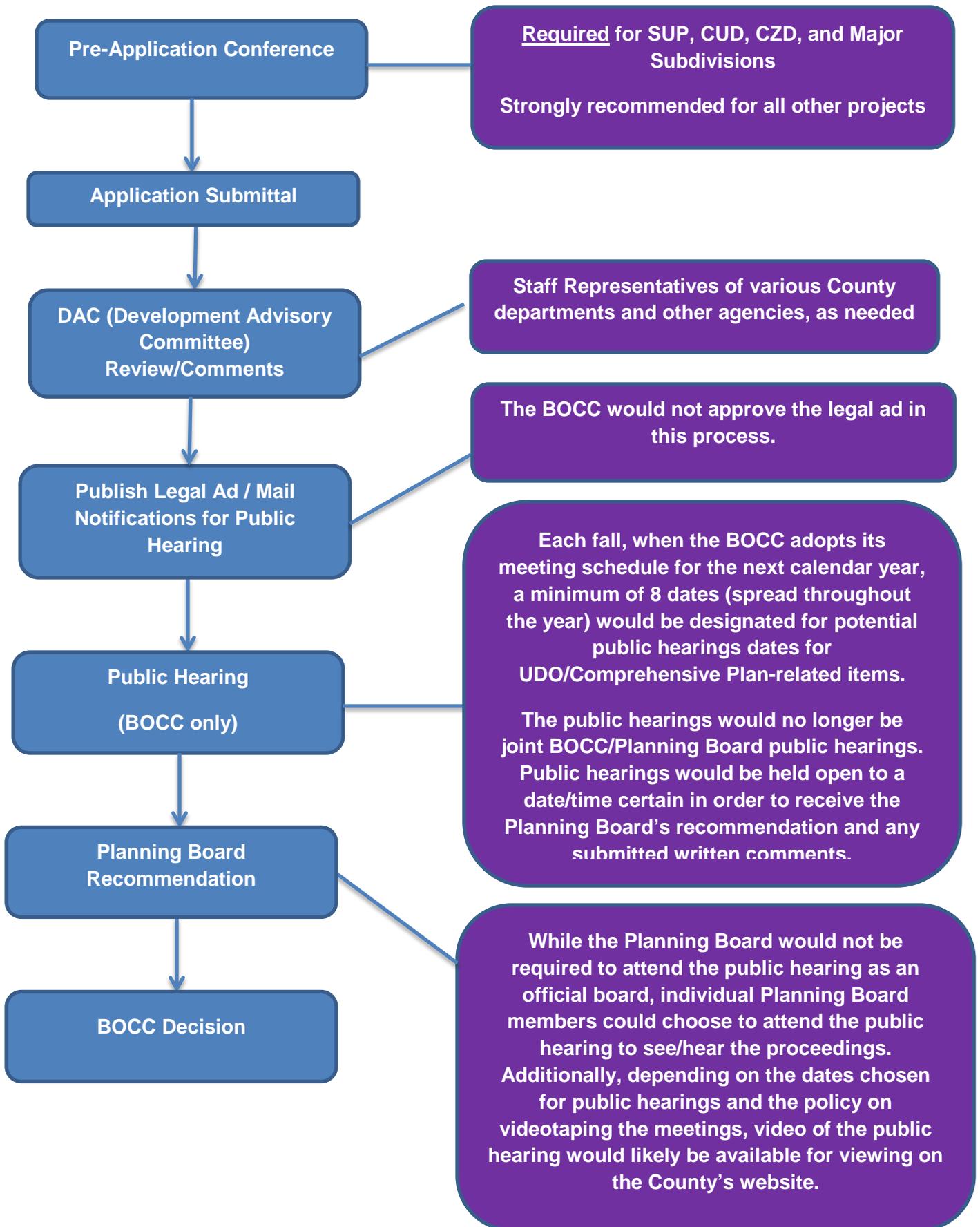
## Existing Review Process for non-County-initiated actions that require a BOCC public hearing



The timeframe from Application Submittal to BOCC Decision is similar for the Existing Process and Proposed Process (a minimum of 4-5 months). From a time perspective, the primary difference between the existing process and the proposed process is the greater number of application due dates per year. There are currently 4 due dates per year, which means that if someone is ready to apply and the application due date is still 2 months away, the application can be submitted but action towards a decision would be on hold for 2 months. If there were a more frequent application deadline and public hearing schedule, the process would be more efficient for some applicants.

In recent years, Orange County's timeframe from application deadline dates to decision compares favorably to most local governments in North Carolina. One of the main differences is that most other local governments have a monthly public hearing cycle rather than the quarterly public hearing cycle Orange County adheres to. Additionally, the practice of having the BOCC approve the legal ad for the public hearings adds additional time (approximately 3 weeks, much more for the August QPH) to the front-end of the schedule since the application deadline date must be early enough to place the legal ad approval item on a BOCC agenda prior to newspaper ad deadline dates.

## Proposed Review Process



The timeframe from Application Submittal to BOCC Decision is similar for the Existing Process and Proposed Process (a minimum of 4-5 months). From a time perspective, the primary difference between the existing process and the proposed process is the greater number of application due dates per year. There are currently 4 due dates per year, which means that if someone is ready to apply and the application due date is still 2 months away, the application can be submitted but action towards a decision would be on hold for 2 months. If there were a more frequent application deadline and public hearing schedule, the process would be more efficient for some applicants.

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**Options for Closing Public Hearing**  
**(with salient points included in bullets)**

1. Hold public hearing open until a date/time certain in order to receive written comments made to the Planning Board.
  - This is the existing process which can be kept in place even if the Planning Board no longer attends public hearings as a formal board.
  - This process ensures the BOCC is apprised of all comments made during the project's review.
  - This process should be retained for quasi-judicial matters (special use permits) in order to meet requirements related to quasi-judicial issues.
    - Several jurisdictions in North Carolina have different processes for legislative vs. quasi-judicial projects, including some jurisdictions in which the Planning Board does not make a recommendation on quasi-judicial matters. However, some types of projects require both a rezoning (legislative) and a special use permit (quasi-judicial) so it can be problematic to have the Planning Board review only certain aspects of an overall action. (This was a point of confusion during the Buckhorn Village deliberations, which occurred prior to the UDO making it clear that the Planning Board makes a recommendation on Class A SUPs. The former zoning ordinance was unclear on whether the Planning Board acts on Class A SUPs).
  - Requiring written comments after the oral public hearings helps to ensure that the Planning Board meeting does not become a defacto second public hearing where new oral comments may be made on controversial matters.
  - If the Planning Board were to make a recommendation prior to the oral public hearing, the process could be different.
    - Staff received fairly strong direction at the September 9, 2013 work session that it was desirable for the Planning Board to make its recommendation after the oral public hearing.
  - Confusion related to how items are listed on the BOCC agenda when the public hearing is being closed and no additional comments are accepted could be addressed by adding a new section to the BOCC agenda specifically for these types of items.
    - "Acceptance of Planning Board Recommendation and Decision on Land Use and Planning-Related Matters," or similar phrasing, may be appropriate.
2. Close public hearing the night of the hearing.
  - The Planning Board could not consider any additional comments (oral or written) after the public hearing is held.

- This point is relevant only if the Planning Board makes its recommendation after the public hearing, rather than before the public hearing.
  - Can be problematic if additional information is requested at the public hearing.
    - In instances where additional information is requested at the hearing, the public hearing would have to be held open to a date/time certain in order to receive the additional information.
  - In some NC jurisdictions, the public hearing is closed and a decision is made at the same meeting.
    - This process can function only if the Planning Board makes its recommendation prior to the public hearing or if the Planning Board also attends the public hearing and makes its recommendation the same night.
    - In instances where more information is needed, the hearing would be continued to a date/time certain.
    - Past BOCCs have stated a desire to not make decisions the same night as the hearing.
3. Hold two separate public hearings – one for the Planning Board and one for the BOCC – and close both hearings the same night as the hearing
- This potential process was discussed at the September 9, 2013 work session but was not favored.
    - Would result in the need for advertising both public hearings, thereby doubling advertising costs
      - Orange County already advertises in two publications (State statutes require advertising in only one) so the County's advertising costs are already higher than necessary to meet statutory requirements.
        - Staff notes that a policy decision was made many years ago when developing the fee schedule that the advertising costs for only one publication are included in the application fee applicants pay. The annual Planning Department budget includes covering the costs of advertising in two publications.
  - This hearing process has the potential to result in widely divergent points of view being expressed at the separate public hearings, depending on whether interested persons choose to attend both hearings or only one hearing.

Excerpt of ORC Meeting Notes

SUMMARY NOTES  
ORANGE COUNTY PLANNING BOARD  
JANUARY 8, 2014  
ORDINANCE REVIEW COMMITTEE

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

**MEMBERS PRESENT:** Peter Hallenbeck (Chair), Cheeks Township Representative; James Lea, Cedar Grove Township Representative; Herman Staats, At-Large, Cedar Grove Township; Paul Guthrie, At-Large, Chapel Hill Township; Tony Blake, Bingham Township Representative; Buddy Hartley, Little River Township Representative; Johnny Randall, At-Large Chapel Hill Township;

**STAFF PRESENT:** Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor; Perdita Holtz, Special Projects Coordinator; Ashley Moncado, Special Projects Planner; Jennifer Leaf, Planner I; Tina Love, Administrative Assistant II

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

**AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – CHANGES TO THE PUBLIC HEARING PROCESS**  
To continue review and comment upon proposed revisions to the UDO to change the existing public hearing process and to amend other provisions that need to be changed if the public hearing process is amended.  
**Presenter:** Perdita Holtz, Special Projects Coordinator

Perdita Holtz: Reviewed abstract.

Pete Hallenbeck: I think the chart on page 11 is really good, it tells you what's going on. I also like the idea of discontinuing the joint BOCC/Planning Board meetings. It seems like the role of the Planning Board during these meetings tends to be just to sit there and there are other opportunities for the Planning Board to voice its concern. There is nothing to keep Planning Board members from attending the public hearing and I would not object if it was decided that the Planning Board Chair was required to be at the public hearing or at least somebody from the Planning Board. I do think it is good and important when you have citizen input to be able to hear it in addition to just reading it. I think not having the joint meeting is good but I'd like to have a mechanism where someone from the Planning Board is there so they can get more than the word. There are comments from both the Commissioners and the public during the hearing and it would be good to have a member present to hear them.

Paul Guthrie: Basically, I think this is a good move for a couple of reason. One is the increased number of hearing opportunities which I think can expedite a lot of the procedure and maybe take a little pressure off the planning staff since it gets spread out. They don't have to dump everything into four quarters. I do have a couple of questions. One is what kind of communication summarizing the public hearing will be transmitted to the Planning Board so that the Planning Board can intelligently consider the topic?

Perdita Holtz: It is unlikely that official quarterly public hearing minutes would be available quick enough for Planning Board meetings. We are envisioning that the Planning Board meeting would occur within two to three weeks after the public hearing and generally meeting minutes take longer than that for the Clerk's office to turn around. It would probably be, if the Planning Board was not going to view the meeting on the internet in the comfort of your own home, similar to what happens now where comments that were made are in the amendment outline form and the abstract and we provide a staff response, as necessary, to those comments. So it would pretty much be a staff report of what took place.

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Pete Hallenbeck: I also like the quicker review and more meetings and less time for the public to get something through. That is certainly the number one point of all of this.

Perdita Holtz: I should mention that it is probably not going to be less time from application deadline to decision but there will be more opportunities for someone to submit an application. If they miss a deadline, they don't have to wait as long until the next application deadline.

Paul Guthrie: On page 19, in the new language, Planning Board shall make a recommendation based on information entered into the record at the public hearing but not make the finding required in section 5.3.2A. Does that mean that it is going to be the individual duty of the Planning Board member to look at all the documentation put in the public record at the time of the hearing in order to justify its decision?

Perdita Holtz: No, this is for Special Use Permits. They don't come along that often but for Class A Special Use Permits there is a 15 page form of yes/no answers that staff fills out for the Planning Board on whether it meets the requirements of various sections such as if they have enough landscaping, if they have enough buffer, etc. and we check yes or no in staff's opinion and then the Planning Board either concurs with that opinion or dissents from that opinion. On that form there are four questions that staff does not make a recommendation on and those are things that the Planning Board has to come to its own conclusion about and the BOCC has to come to its own conclusion as well. Those are the section referenced here and if you were not at the hearing it would be legally murky to make those findings if you weren't in attendance so that is what this is in reference to. I should also mention that on page 17, the language of 2.3.10b needs to be revised a little bit before it goes to public hearing so that will be changing from what you see in front of you here.

Paul Guthrie: You have similar language in 2.8.8b. Another question, have you thought about how you would space the 8 mandatory hearing dates?

Perdita Holtz: It is going to be up to the BOCC to decide that but we as staff are going to recommend to them that they probably do hearings in the months of February, March, April, May, September, October, November. January they only have one meeting per year and it is usually very full and in December those are the last meetings before the break so we don't want to put them there plus the agenda deadlines are different due to the holidays. June is off as it is very budget heavy month when they have to adopt the budget by the end of the month. That is our staff recommendation but the BOCC will stagger them however they want.

Paul Guthrie: Again in 2.8.8e, which is existing language, do you think that existing language is a little too restrictive given the new format of not having the joint hearings? Essentially, the first time we'll be exposed to testimony will be in the presentation at the Planning Board meeting and does that mean we cut off verbal testimony.

Perdita Holtz: The reason it was adopted was the BOCC did not want to have oral evidence at the Planning Board meetings that they did not also hear. That is why this language exists. The meeting at the Planning Board is not going to be an official public hearing it is just a regular Planning Board meeting and technically people will not be able to come and speak if they don't also have their comments in writing. If you think that is not desirable, you can make a recommendation to look at that or change the language.

Paul Guthrie: I would encourage you to think about it because, and I'm wondering if that may even need to be elaborated on a little bit, because if somebody wants to come the Planning Board meeting or only knows about it through the Planning Board then we are advising County Commissioners who have already had a hearing. It bothers me a little bit.

103 Pete Hallenbeck: I think that could be mentioned to the Commissioners but it is definitely their call. I see their  
104 concern that the Planning Board meeting would not be a public hearing. If people show to speak all of a sudden it is  
105 a public hearing but the Planning Board is a mechanism for receiving input.  
106

107 Paul Guthrie: Does that mean inversely if someone wants to speak on the subject on our agenda, they cannot  
108 speak.  
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110 Pete Hallenbeck: The way I read it is if they have something written down they are allowed to come and give it to  
111 the Board. I think the Planning Board could interact with them if they had questions or clarifications. The only thing  
112 I would worry about with someone giving just oral evidence at the Planning Board meeting is that has to be carefully  
113 documented as we certainly don't a scenario where someone says they said something at a meeting and there is  
114 no documentation of it. The public hearing is better equipped for that. Finally, the Commissioners may, for the  
115 same reason that I was, want to have Planning Board member present at the public hearings. I think the  
116 Commissioners get a lot from hearing people talk and how they speak and how passionate they are and that might  
117 be another reason they want to make sure that if somebody's just doing an oral presentation, they hear it. If staff  
118 wanted to bounce that off the Commissioners and verify, yes we want oral presentations only at the County  
119 Commissioners' meetings and anything presented at Planning Board should be written, they can verify that. I am a  
120 little nervous about the Planning Board taking oral presentations we have to be careful of the interactions and  
121 cannot promise anything like they can. The vote we have is not binding and the Commissioners are not at Planning  
122 Board meetings to get all those nuances that come with an oral presentation.  
123

124 Paul Guthrie: I have some concerns in the bigger picture than this topic. Putting that kind of restrictions on  
125 communications to a citizen advisory board. I think it's a road we have to be very careful about how we define  
126 because it could have major implications on the ability of this Board to function in what I perceive is what it's  
127 capacity is. That goes beyond this.  
128

129 Pete Hallenbeck: I do believe it does have to be carefully spelled out. You could have problems if you said all you  
130 can do is come and give us written paper and I think you would have a problem if anyone could just walk in and  
131 start talking and interacting and how the Planning Board would convey that to the Commissioners.  
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133 Paul Guthrie: I'm done.  
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## Amendment Package to Change Existing Public Hearing Process

### Notes

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text to adopt changes to the existing public hearing process for Comprehensive Plan- and Unified Development Ordinance-related hearing items.

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

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

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

## ARTICLE 2: PROCEDURES

### SECTION 2.1: REVIEW AND DECISION MAKING AUTHORITY – SUMMARY TABLE

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

TABLE 2.1: REVIEW AND DECISION MAKING AUTHORITIES						
R=REVIEW DM=DECISION MAKER PH=PUBLIC HEARING						
ZONING/DEVELOPMENT REVIEW RELATED PROCEDURES	PLANNING DIRECTOR	EROSION CONTROL OFFICER	DEVELOPMENT ADVISORY COMMITTEE (DAC)	BOARD OF ADJUSTMENT	PLANNING BOARD	BOCC
Zoning Compliance Permits	R and DM	R	R			
Soil Erosion and Sedimentation Control Permits		R and DM				
Stormwater Management Plans		R and DM				
UDO Text Amendments	R		R		R [1]	DM and PH
Zoning Atlas Amendments	R		R		R [1]	DM and PH
Special Use Permits	R	R	R	DM and PH Class B	R [1] Class A	DM and PH Class A
Zoning Variances	R		R	DM and PH		
Conditional Use	R	R	R		R [1]	DM and PH
Appeals/Interpretations	R		R	DM and PH		
Comprehensive Plan Amendments	R				R [1]	DM and PH
Subdivision Related Procedures						
Exempt	R and DM					
Minor	R and DM	R	R			
Major	R	R	R		R and DM [2]	R and DM
Conditional Use	R	R	R		R [1]	R, DM, and PH
Appeal						
NOTES						
[1]	<p><del>The Planning Board attends a Joint Public Hearing with the BOCC to review all zoning related items requiring a public hearing. The Planning Board will have the item referred to it and shall have up to 90 days to comment on the application.</del> A public hearing is held by the BOCC after which the item is referred to the Planning Board for recommendation. The referral motion shall hold the public hearing open to a date/time certain in order for the BOCC to receive the Planning Board recommendation and any written comments submitted after the public hearing.</p>					
[2]	<p>The Planning Board approves the Concept Plan for a Major Subdivision and then makes a recommendation on the Preliminary Plat to the BOCC.</p>					

**2.2.8 Effect of Denial on Subsequent Applications**

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

**SECTION 2.3: COMPREHENSIVE PLAN AMENDMENTS**

**2.3.1 Review and Approval Flow Chart**

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

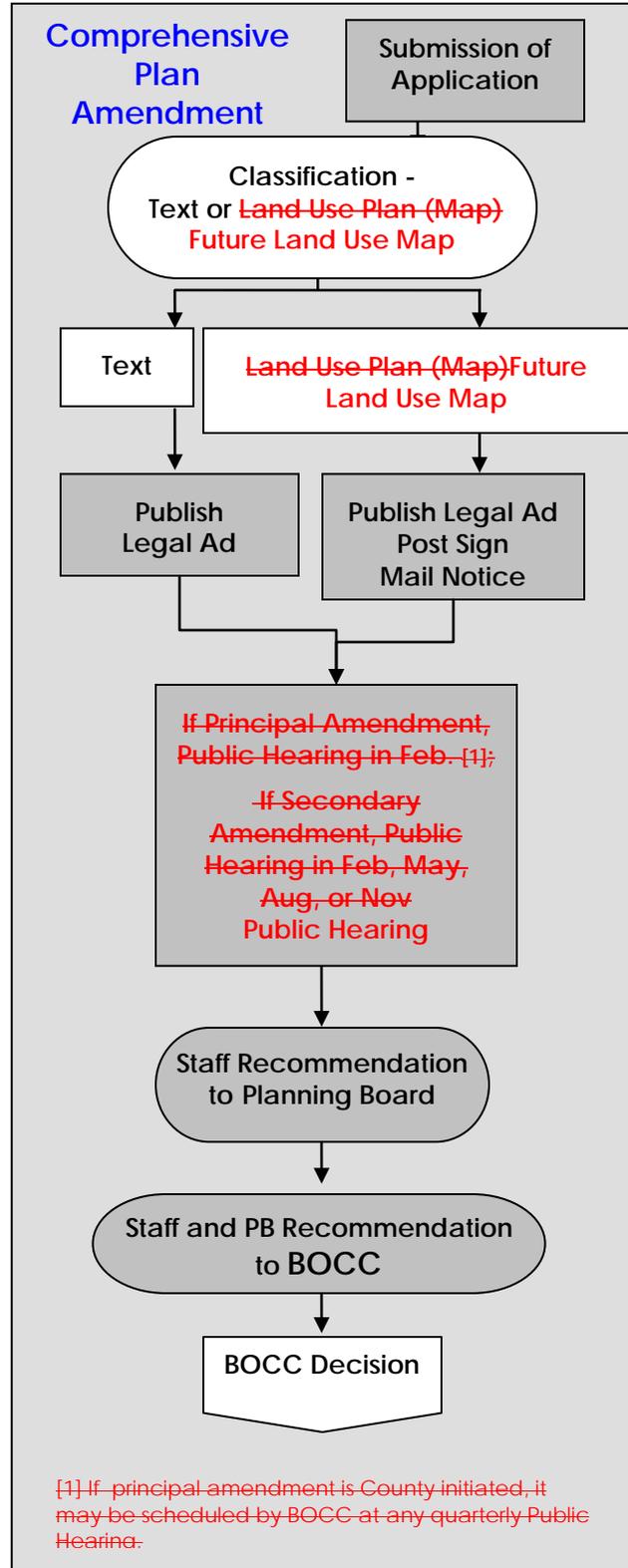
**2.3.2 Generally**

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

**2.3.3 Initiation of Amendments**

An amendment to the Comprehensive Plan or portion thereof may be initiated by:

- (A) The Board of Commissioners on its own motion;
- (B) The Planning Board;
- (C) Application, by any person or agency, which accurately and completely sets forth the reason(s) for the proposed amendment as



- prescribed in Section 2.3.2(B); or
- (D) The Planning Director.

### ~~2.3.4 Classification of Amendments~~<sup>1</sup>

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

~~(A) Principal Amendments Include~~

- ~~(1) Additions to or modifications of policies, objectives, principles or standards;~~
- ~~(2) The creation of new activity nodes or additions to existing activity nodes which exceed ten acres in land area; or~~
- ~~(3) Proposals for new freestanding plan areas or additions to existing areas that exceed 100 acres in land area.~~

~~(B) Secondary Amendments Include~~

- ~~(1) The expansion of an activity node where the additional area is contiguous to an existing node and does not increase its land area by more than ten acres;~~
- ~~(2) The expansion of a designated plan area where the additional area is contiguous to the existing plan designation and does not increase its land area by more than 100 acres;~~
- ~~(3) A correction of an error or omission; or~~
- ~~(4) Revisions to any factual or descriptive material.~~

### 2.3.5 Public Hearing Required

A public hearing shall be held before adoption of any proposed Comprehensive Plan amendment. The Board of County Commissioners ~~and the Planning Board~~ shall hear applications and receive public comment for proposed Comprehensive Plan amendments ~~in a Quarterly Public Hearing at a meeting designated for UDO/Comprehensive Plan-related public hearings.~~ Dates for said meetings shall be designated each year in accordance with Section 2.8.12.

### 2.3.6 Notice Requirements for Public Hearings

- (A) Notice of the public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the County, stating the time and place of such hearing and the substance of the proposed amendment.
- (B) This notice shall appear in said newspaper for two consecutive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.
- (C) The minimum published size of the notice shall be 25 square inches.
- (D) In the case of amendments to the ~~Land Use Plan (map)~~ Future Land Use Map<sup>2</sup>, the Planning Director shall prominently post a notice of the public hearing on the site proposed for the land use change or on an adjacent public street or highway right of way not less than ten days before the date set for the public hearing.

<sup>1</sup> If the proposed text amendments are adopted, public hearings will no longer be held on only a quarterly basis. Because of this, the text in Section 2.3.7 (A) (B) and (C) becomes obsolete which means that the text in this section (2.3.4) is effectively no longer relevant. Amendments to the Comprehensive Plan could be heard at any of the public hearings that will be designated each year for UDO/Comprehensive Plan-related items. Note that all subsequent subsections on 2.3 will be renumbered with the removal of Section 2.3.4.

<sup>2</sup> The official name of the map was clarified/changed on February 7, 2012.

- (1) When multiple parcels are included within a proposed ~~Land Use Plan (map)~~ **Future Land Use Map** amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.
- (E) In the case of amendments to the ~~Land Use Plan (map)~~ **Future Land Use Map**, written notice of the public hearing shall be sent by first-class mail to all property owners, as listed in the Orange County tax records, whose property is affected (property that is included in the proposed ~~land-use-plan~~ **Future Land Use Map** amendment) and all property owners within 500 feet. Said notice shall be mailed at least 14 days, but not more than 25 days, prior to the date of the public hearing.

### 2.3.7 Consideration of Amendments<sup>3</sup>

- ~~(A) Principal amendments shall generally only be considered once each year at the quarterly public hearing in February.~~
- ~~(B) If a principal amendment is scheduled by the Board of County Commissioners for other than the February quarterly public hearing, it shall be scheduled during one of the quarterly public hearings held in May, August, and November.~~
- ~~(C) Secondary amendments may be considered four times each year at the quarterly joint public hearings in February, May, August, and November.~~
- (D) A proposed amendment may be considered in conjunction with a rezoning request for the same property if the requests are in compliance with an adopted small area plan.
- (E) Requests for a rezoning not in compliance with an adopted small area plan, conditional use district, and/or special use permit may only be considered at subsequent hearings or meetings following approval of the proposed amendment to the Comprehensive Plan.

### 2.3.8 Application Requirements

#### (A) Generally

- (1) All applications for amendments to the Comprehensive Plan shall be submitted on forms supplied by the Planning Department and shall be signed.
- (2) Three copies of the application shall be submitted to the Planning Director.
- (3) Before accepting any amendment application, the Planning Director shall ensure that it contains all required information, as specified in this Ordinance. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Planning Director, but shall be returned to the applicant, with a notation by the Planning Director of the deficiencies in the application.

#### (B) Contents of Application

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

- (1) For amendments to the ~~Land Use Plan (map)~~ **Future Land Use Map** within the Land Use Element, a map at a legible scale adequately illustrating the land which would be covered by the proposed map amendment, and a complete list of Property Identification Numbers (PIN) for the properties;

<sup>3</sup> If the proposed text amendments are adopted, public hearings will no longer be held on only a quarterly basis. Because of this, the text in (A) (B) and (C) becomes obsolete. Automatic renumbering of (D) and (E) to (A) and (B) will occur upon deletion.

- (2) For amendments to the Comprehensive Plan text, a copy of the existing text provision(s) which the applicant proposes for amendment, and a written statement which describes in detail changes which the applicant proposes to make to the text of the Comprehensive Plan and the rationale for the proposed amendment consistent with the standards established in this Ordinance; and
- (3) All other circumstances, factors and reasons which the applicant offers in support of the proposed Comprehensive Plan amendment.

### **2.3.9 Analysis and Recommendation**

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

### **2.3.10 Planning Board Review**

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- (A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.
- (B) The Board of County Commissioners ~~may~~ shall direct the Planning Board to provide a recommendation by a date certain<sup>4</sup>. ~~The date certain shall not be less than 30 calendar days from the date of referral unless there is reasonable confidence the Planning Board can return a recommendation in less than 30 days<sup>5</sup>. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings unless the Board of County Commissioners grants an extension.~~
- (C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B), the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.
- (D) ~~Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.<sup>6</sup>~~
- (E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.<sup>7</sup>

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<sup>4</sup> It has been the County's practice for several years to hold the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. A determination was made by the former County attorney several years ago that this practice was necessary in order to meet State requirements for the public hearing process since the Planning Board recommendation and any written comments received are technically part of the public hearing.

<sup>5</sup> NCGS §153A-344 states that: Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within **30 days of referral of the amendment** to that board, the board of county commissioners may proceed in its consideration of the amendment without the planning board report. The board of commissioners is not bound by the recommendations, if any, of the planning board.

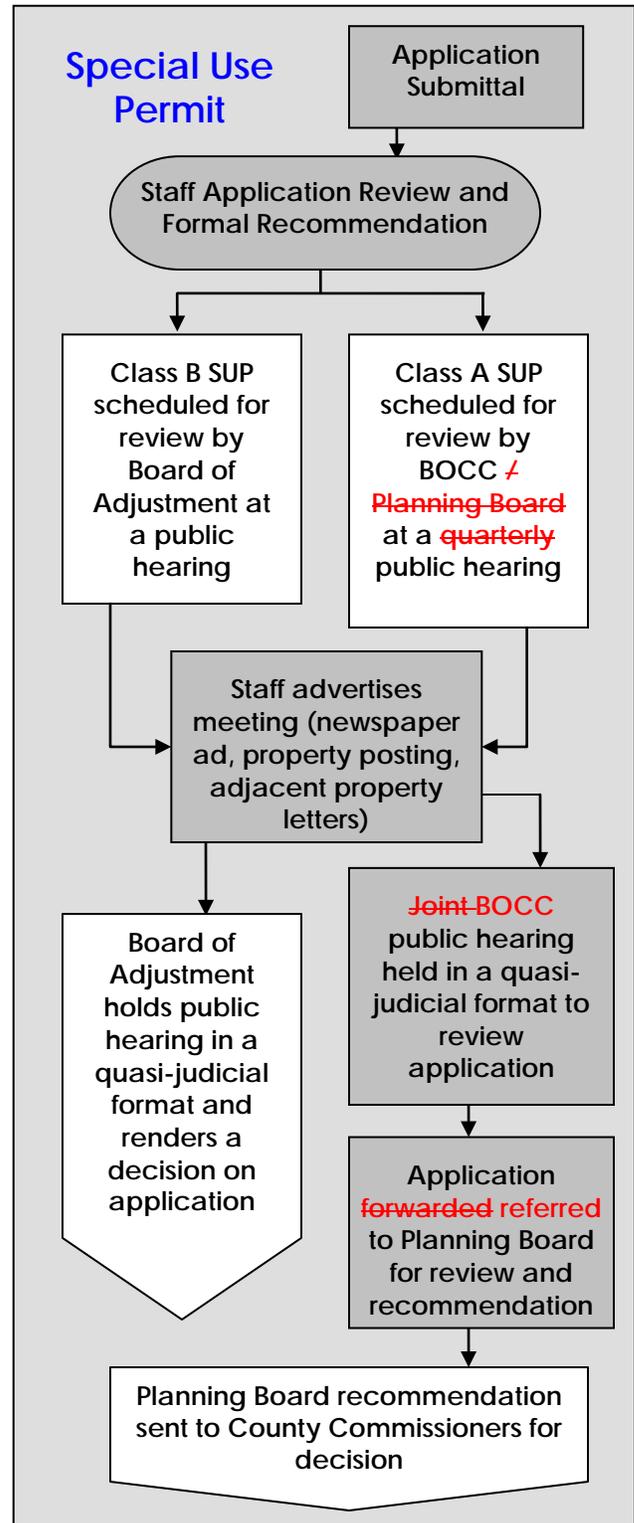
<sup>6</sup> This section is irrelevant due to the practice of holding the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. (E) will be renumbered (D).

<sup>7</sup> At the January 8, 2014 ORC (Ordinance Review Committee) meeting, a Planning Board member questioned the practice of requiring comments in writing in order for a resident to address the Planning Board. Staff explained that the purpose of requirement is twofold: 1) to ensure the Planning Board meeting does not become a second unofficial "public hearing," which is a possibility on any controversial actions, and 2) to ensure the Board of County Commissioners (BOCC) receives the same information the Planning Board has in reaching a decision. If residents were not required to also submit in writing any oral comments made to the Planning Board, the BOCC could be unaware of some oral comments.

**SECTION 2.7: SPECIAL USE PERMITS**

**2.7.1 Generally**

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



**2.7.2 Review and Approval Flow Chart**

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

**2.7.3 Application Requirements**

- (A) Applications for a Special Use shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (B) Applications shall include:
  - (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.
  - (2) The name(s) and address(es) of the owner(s) of the property involved.
  - (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use (See Articles 5 and 6).

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### 2.7.6 Notice Requirements for Class B Special Use Permits

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

### 2.7.7 Nature of Proceedings

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- (A) The review of Special Use Permit applications shall be conducted during a public hearing by the decision-making board.
- (B) The review of a Special Use Permit application is a quasi-judicial process, where the Board responsible for rendering a decision acts much like a panel of judges. The Board hears factual evidence and sworn testimony presented at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence.
- (C) The chair or presiding officer of the hearing shall swear all parties intending to present evidence or testimony during the hearing.
- (D) The chair or presiding officer may take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the application, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include:
  - (1) Barring the presentation of obvious hearsay evidence,
  - (2) Barring the presentation of non-expert opinion,
  - (3) Interrupting digressions into immaterial testimony,
  - (4) Interrupting repetitive testimony,
  - (5) Reasonably limiting the time allotted each witness or cross-examination,
  - (6) Providing for the selection of spokespersons to represent groups of persons with common interests,
  - (7) Interrupting personal attacks, and/or
  - (8) Ordering an end to disorderly conduct.
- (E) Where the Board finds compliance with the general standards, specific rules governing the specific use, and that the use complies with all required regulations and standards, the application must be approved unless the Board shall also find, in some specific manner, that:
  - (1) the use will not maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.
- (F) Those opposing approval of the application on the grounds that the use will not promote the public health, safety and general welfare shall have the burden of establishing, by competent material and substantial evidence, the specific manner in which the proposed use does not satisfy the requirements for approval of the application for a Special Use.

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### 2.7.8 Review and Decision

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- (A) For Class A Special Use permits, the following shall apply:
  - (1) The Board of County Commissioners ~~and Planning Board~~ shall review the application during a regularly scheduled public hearing.
  - (2) Following review at a public hearing, the Special Use permit application shall be referred to the Planning Board for its consideration and recommendation.

- (3) The Board of County Commissioners ~~may shall~~ direct the Planning Board to provide a recommendation by a date certain<sup>8</sup>. ~~If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled meetings.~~
- (4) ~~If the Planning Board fails to make a recommendation within the time allotted within subsection (3) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~<sup>9</sup> The Planning Board shall make a general recommendation on whether a project should be approved or denied based upon information entered into the record at the public hearing but shall not make the findings required in Section 5.3.2(A).<sup>10</sup>
- (5) After receipt of any Planning Board recommendation and closure of the public hearing, the Board of County Commissioners shall take action upon the application. This action shall be one of the following:
  - (a) Approval;
  - (b) Approval with conditions; or
  - (c) Denial.

~~(B) For Class B Special Use Permits, the following shall apply:~~

- ~~(1) The Board of Adjustment shall review the application during a regularly scheduled public hearing.~~
- ~~(2) The Board of Adjustment shall conduct the hearing in accordance within the provisions detailed in this Section as well as those contained within Section 2.12.~~
- ~~(3) After completion of the public hearing, the Board of Adjustment shall take action upon the application. This action shall be one of the following:
  - ~~(a) Approval;~~
  - ~~(b) Approval with conditions; or~~
  - ~~(c) Denial.~~~~

### 2.7.9 Standards of Evaluation

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

- ~~(A) The project meets all applicable design standards and other requirements of this Ordinance.~~
- ~~(B) The development can reasonably be completed within the vesting period requested, if any.~~

<sup>8</sup> It has been the County's practice for several years to hold the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. A determination was made by the former County attorney several years ago that this practice was necessary in order to meet State requirements for the public hearing process.

<sup>9</sup> This section is irrelevant due to the practice of holding the public hearing open until a date/time certain in order to receive the Planning Board's recommendation.

<sup>10</sup> Because the Planning Board will not officially attend the quasi-judicial public hearing (individual members may choose to attend but a quorum of Planning board members will not be necessary in order to conduct the public hearing), the Planning Board may not make findings. However, the Planning Board may make a general recommendation to the BOCC on whether a project should be approved or denied. Alternatively, the Planning Board could be removed from the approval process for Class A Special Use Permits (and apparently was not part of the process more than 10 years ago, but was made part of the process via procedural policy several years ago which became codified when the UDO was adopted in 2011). However, it could be problematic to implement this idea from a procedural standpoint when a project might require both a rezoning and an SUP (as in the case of Conditional Use). For this reason, staff is recommending that the Planning Board recommendation on Class A SUPs would be a general recommendation rather than one that requires that findings be made.

- (B)** For amendments to the Unified Development Ordinance text:
- (1)** A copy of the existing text provision(s) which the applicant proposes for amendment, and
  - (2)** A written statement which describes in detail the changes the applicant proposes to make.
- (C)** The alleged error in the Zoning Atlas and/or Unified Development Ordinance text that would be corrected by the proposed amendment with a detailed explanation of such error in the Zoning Atlas and/or Unified Development text and detailed reasons how the proposed amendment will correct the alleged error;
- (D)** The changed or changing conditions, if any, in the area or in the County generally, which makes the proposed Zoning Atlas and/or Unified Development Ordinance text amendment reasonably necessary to promote the public health, safety and general welfare;
- (E)** The manner in which the proposed Zoning Atlas and/or Unified Development Ordinance text amendment will carry out the intent and purpose of the adopted Comprehensive Plan or part thereof; and
- (F)** A traffic impact study as required by Section 6.17.
- (G)** For amendments to the Special Flood Hazard Area Overlay District, pertaining to a Letter of Map Amendment:
- (1)** An elevation certificate with either an MT-1, MT-2, or MT-EZ (forms available through FEMA), or
  - (2)** A "No-Impact" analysis for a Letter of Map Revision.
- (H)** All other circumstances, factors and reasons that the applicant offers in support of the proposed Zoning Atlas and/or Unified Development Ordinance text amendment.

#### **2.8.4 Applications for Amendment – Joint Planning Area**

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

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

#### **2.8.5 Analysis and Recommendation**

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

#### **2.8.6 Public Hearing Required**

A public hearing shall be held before adoption of any proposed Zoning Atlas Amendment and/or text amendment to this Ordinance. The Board of County Commissioners ~~and the Planning Board~~ shall hear applications and receive public comment for Zoning Atlas amendments and/or text amendments to this Ordinance ~~in a Quarterly Public Hearing at a meeting designated for UDO/Comprehensive Plan-related public hearings. Dates for said meetings shall be designated each year in accordance with Section 2.8.12.~~

### 2.8.7 Notice of Public Hearings

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

### 2.8.8 Planning Board Review

- (A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.
- (B) The Board of County Commissioners ~~may shall~~ direct the Planning Board to provide a recommendation by a date certain. ~~If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings.~~ The date certain shall not be less than 30 calendar days from the date of referral unless there is reasonable confidence the Planning Board can return a recommendation in less than 30 days.<sup>11</sup>
- (C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.
- (D) ~~Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.~~<sup>12</sup>
- (E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.<sup>13</sup>

### 2.8.9 Action by Board of County Commissioners

- (A) The Board of County Commissioners shall not consider enactment of the proposed amendment until the Planning Board either makes its recommendation or takes no action on the application as prescribed in Section 2.8.8(C).

<sup>11</sup> See footnotes 4 and 5 for further explanation.

<sup>12</sup> This section is irrelevant due to the practice of holding the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. (E) will be renumbered (D).

<sup>13</sup> See footnote #7 for additional information about subsection (E).

- (B) In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.

#### **2.8.10 Text Revisions Pertaining to Soil Erosion and Sedimentation Control Provisions**

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

#### **2.8.11 Text Revisions Pertaining to Stormwater Provisions**

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

#### **2.8.12 Setting Public Hearing Dates**

- (A) The Board of County Commissioners shall adopt a meeting schedule that designates a minimum of eight dates annually, spread throughout the year, for potential public hearings for UDO/Comprehensive Plan-related items.
- (B) The Planning Director shall establish and publish application due dates for each potential public hearing in a timely manner after the Board of County Commissioners adopts its meeting schedule.

### **SECTION 2.9: CONDITIONAL DISTRICTS**

#### **2.9.1 Conditional Use District (CUD)**

- (A) **Generally**
  - (1) Any use permitted under the CUD process shall conform to all applicable development regulations for the corresponding general use zoning district as well as any specific development standards outlined within this Ordinance.
  - (2) The Board of County Commissioners, in reviewing a CUD application, may impose such reasonable conditions upon approval of a CUD request as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and ensure equitable treatment.
  - (3) Only those conditions mutually agreed to by the applicant and the Board of County Commissioners may be imposed on a CUD application.

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### 2.11.6 Notice Requirements

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Notice requirements shall follow Section 2.12.6(A). Other subsections of Section ~~2.2.6~~ 2.12.6<sup>14</sup> are not applicable to applications for an appeal of an interpretation.

## SECTION 2.12: BOARD OF ADJUSTMENT

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### 2.12.1 General Provisions

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

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### 2.12.2 Quasi-Judicial Proceedings

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

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### 2.12.3 Evidence and Testimony

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#### (A) Interested Party

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

#### (B) Subpoenas

- (1) The Board of Adjustment may subpoena witnesses and compel the production of evidence.
- (2) If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the Court will have jurisdiction to issue those orders after notice to all proper parties.
- (3) No testimony of any witness before the Board of Adjustment, pursuant to a subpoena issued in exercise of the power conferred by this subsection, may be used against the witness in any civil or criminal action, other than a prosecution for false swearing committed on the examination.
- (4) Anyone who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

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<sup>14</sup> Typographical error that staff recommends correcting as part of this amendment package.

- ~~(c) The facility shall be removed within 12 months from the date the applicant ceases use of the facility.~~
- ~~(d) Once the infrastructure is removed the property, the owner shall obtain the necessary Erosion Control permits to re-stabilize the property. The time frame for completion shall be determined by the Orange County Erosion Control Officer.~~
- ~~(e) The owner shall provide financial security in form and amount acceptable to the County to secure the expense of dismantling and removing said structures.~~
- ~~(f) Upon removal of the facility, the Department shall cause a notice to be recorded within the Orange County Registrar of Deeds office indicating that the Class A Special Use Permit has been revoked.~~

## SECTION 5.10: STANDARDS FOR TELECOMMUNICATION FACILITIES

### 5.10.1 Intent

~~The regulations contained herein are designed to provide for the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services through the community with the goal of establishing reliable wireless service to the public, governmental agencies, and first responders in a manner that provides for the public safety and general welfare of its citizens.~~

### 5.10.2 Master Telecommunications Plan ("Plan")

- (A)** The Plan is intended to assist providers in their search for suitable locations to build their service network. The County may develop the Plan (map), which would display locations within the County's zoning jurisdiction where property owners have expressed formal, written, interest in allowing construction of telecommunications equipment.
- (B)** Information that may be shown on the base Plan will include, but not limited to:
  - (1)** Existing towers,
  - (2)** Major transmission lines,
  - (3)** County-defined Natural Areas,
  - (4)** Historic properties,
  - (5)** Scenic corridors,
  - (6)** Known bird migratory patterns through the County,
  - (7)** Voluntary Agricultural Districts, and
  - (8)** Publicly-owned or quasi-public lands.
- (C)** In order to participate in the Plan, all owner(s), or their legally binding representatives, shall submit an application on a form prepared by the Planning Department requesting inclusion.
- (D)** All telecommunication providers who elect to construct facilities on properties in the Plan shall provide all necessary and requested information to the County's telecommunications consultant.
- (E)** Modification of the Plan may be considered ~~annually at the February Quarterly Public Hearing. Any applicant requesting modification of the Plan shall make application to the Planning Director on or before December 1st of each year at any of the meetings~~

designated for UDO/Comprehensive Plan-related public hearings<sup>13</sup>. The fee for modifying the Plan shall be that as set forth in the Orange County Schedule of Fees.

- (F) Withdrawal from the Plan is permitted if any owner submits, to the Planning Director, a notarized statement requesting same. Upon receipt of the request, including any fee for modifying the Plan as set forth in the Orange County Schedule of Fees, the Planning Director shall inform interested parties that the property has been withdrawn from consideration. Removal of the property from the Plan shall be processed as a modification as detailed herein.

### 5.10.3 Annual Telecommunications Projection Meeting (ATPM)

#### (A) Purpose and Outcome

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

#### (B) Applicability

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

#### (C) Meeting Specifics

- (1) The meeting shall occur by the end of January of each calendar year.
- (2) Attendees shall include all carriers and tower companies who have either filed applications the previous year or anyone who has expressed an interest in filing an application to construct a telecommunication support facility within the County.
- (3) The County shall notify each party of the date, time, and place of the meeting no later than 30 days prior to the meeting.
- (4) Those individuals/firms intent on submitting development applications are expected to attend the meeting. While a lack of attendance will not prevent the submittal of an application, it will prevent the applicant's ability to participate in the discussions outlining the areas of concentration for the location of

<sup>13</sup> Since the dates for public hearings may change from year to year if the public hearing process change amendments are adopted, it is not possible to pinpoint a date for hearings. Therefore, staff is suggesting that any entity that would like to modify the Master Telecom Plan be permitted to apply for any of the public hearing dates where UDO/Comprehensive Plan items can be considered.