

# ORANGE COUNTY ASSEMBLY OF GOVERNMENTS

## JOINT MEETING DRAFT AGENDA

Assembly of Governments  
November 21, 2013  
Meeting – 7:00 p.m.  
Southern Human Services Center  
Chapel Hill, NC

- |               |    |  |
|---------------|----|--|
| (7:00 – 7:05) |    | Welcome, Call To Order and Opening Comments (BOCC Chair and Mayors)  |
| (7:05 – 7:35) | 1. | Affordable Housing Updates   |
| (7:35 – 8:10) | 2. | Solid Waste Updates Regarding Future Recycling/Waste Reduction Initiatives   |
| (8:10 – 8:25) | 3. | Chapel Hill ETJ Expansion Process  |
| (8:25 – 9:05) | 4. | Report from the Historic Rogers Road Neighborhood Task Force   |
| (9:05 – 9:30) | 5. | Accommodating Appropriate Agricultural Support Enterprises in the Rural Buffer - Proposed Changes to the Orange County Unified Development Ordinance   |
| (9:30 – 9:45) | 6. | INFORMATION ITEMS (No Specific Presentation or Discussion)<br><u>ATTACHMENTS</u><br>A) Southern Campus Master Plan Development Update<br>B) Potential Bond Issue<br>C) Older School Facility Needs<br>D) Southern Branch Library Siting Process Update<br>E) 911/EMS Assessment Update<br>F) Locally Owned and Operated Trunked 700MHz Radio System<br>G) Morinaga America Foods, Inc. Update<br>H) Potential Orange County Fair |

**ORANGE COUNTY  
ASSEMBLY OF GOVERNMENTS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** November 21, 2013

**Action Agenda  
Item No.   1**

**SUBJECT:** Affordable Housing Updates

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**DEPARTMENT:** Housing/Human Rights/Comm. Development      **PUBLIC HEARING: (Y/N)**

No
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**ATTACHMENT(S):**

(Provided as One Electronic Document)

- I – Orange County Clearinghouse Network
  - II – Town of Chapel Hill Affordable Housing Strategy
  - III. Mayor’s Committee Report and Recommendations
  - IV – Carrboro Affordable Housing Task Force Recommendations
  - V - Carrboro Affordable Housing Dialogue Sessions: Results and Recommendations
  - VI – Hillsborough Memorandum
  - VII – Memo from Robert Dowling, Community Home Trust
  - VIII – Draft Charter
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**PURPOSE:** To receive an update on local affordable housing efforts from County and Town staff.

**BACKGROUND:** The principal staff members working on affordable housing issues in the County and the Towns met to discuss the status of affordable housing initiatives throughout the County and the findings are summarized below.

**I. Orange County**

The Affordable Housing Advisory Board has met with the Board of County Commissioners twice this year to discuss affordable housing issues and concerns. Specifically, those conversations have centered on the following.

- The challenges of the Community Home Trust (CHT) with HVAC systems at Greenbridge as well as its general challenges with selling its inventory in the current housing market. The Advisory Board plans to engage in conversation with CHT personnel to better understand its inventory challenges and its marketing strategies.

- There is a continued consideration that mobile homes provide affordable housing for many in the community. Therefore, preservation of existing mobile homes and mobile home parks continues to be important particularly in the unincorporated areas of the County. The Advisory Board plans to revisit a 2007 Manufactured Housing Survey to begin to improve its knowledge on the subject matter.
- Together, the Advisory Board and the Centre for Homeownership and Economic Development Corporation continue to refine a proposal to create an Affordable Housing Clearinghouse to be known as the *Orange County Clearinghouse Network*. This network would create a housing referral network countywide for individuals seeking affordable housing information and opportunity. **Attachment I** provides a brief overview of the proposed Clearinghouse.
- There is continued interest in advocating for a future housing bond referendum. All proceeds from the last housing bond in 2001 have been committed to affordable housing projects in the County.

Additionally, the County maintains the Consolidated Housing Plan for Housing and Community Development Programs in the County as required to be eligible for various HUD funding programs. This plan is due for revision in 2015, thus efforts should be underway in 2014. This can provide an opportunity to incorporate the needs and strategies each local government, thereby expanding its relevance beyond HUD requirements. The current Consolidated Plan may be found at: <http://www.co.orange.nc.us/housing/documents/FY2010-2015ConPlan-51410.pdf>

## II. Town of Chapel Hill

### **Affordable Housing Strategy**

On June 13, 2011, the Town approved an Affordable Housing Strategy that provides a framework for consideration of affordable housing issues in Chapel Hill. A copy of the Strategy is attached as **Attachment II**.

### **Mayor's Committee on Affordable Rental Housing**

Additionally, in May 2013, Chapel Hill Mayor Mark Kleinschmidt established a Committee on Affordable Rental Housing with the following charge.

- Use research and data available and the expertise of the Committee to develop for Town Council consideration, short, medium and long term options, consistent with the Affordable Housing Strategy and the Chapel Hill 2020 comprehensive plan, that meet the community's affordable rental housing needs that the Council could apply to development applications that propose rental housing; and
- Foster collaborative conversations among the Town, the private sector, and other community stakeholders to explore possible partnerships and financial resources to increase the availability of affordable rental housing in Chapel Hill.

The Committee, led by Councilmembers Sally Greene and Donna Bell presented the Committee's recommendations to the Council on October 15, 2013. The

recommendations are included in this abstract as **Attachment III**. There are plans for further consideration of Committee's recommendations by the Chapel Hill Town Council in early 2014.

### **Proposed Affordable Housing Development**

Recently, DHIC, a Raleigh non-profit housing developer has proposed developing up to 80 family apartments and up to 60 senior apartments on 10 acres of Town-owned land adjacent to the Chapel Hill Memorial Cemetery. Current funding plans include applying for Low Income Housing Tax Credits from the NC Housing Finance Agency to keep the project affordable. The preliminary application for this funding would be due in mid-January 2014.

### **III. Town of Carrboro**

The Carrboro Board of Aldermen established an Affordable Housing Task Force in 2012. Three members of the Board of Aldermen were selected to serve: Dan Coleman, Michelle Johnson, and Sammy Slade. The purpose of the task force was to evaluate how/whether the Town's affordable housing density bonus provisions should be restructured and an initial report was presented on December 4, 2012. (See **Attachment IV**.) Following Alderman Coleman's resignation in December 2012, Alderman Lavelle joined the task force, as did representatives of the Planning Board and Transportation Advisory Board. Additionally, in the Fall of 2012, the Carrboro Planning Board held three Affordable Housing Dialogues to discuss affordable housing issues with the general public. The task force reported to the Board of Aldermen again in June 2013 on next steps related to a comprehensive housing policy. A report from those sessions is provided at **Attachment V**. At that time the Carrboro Aldermen authorized the Task Force to work on the following issues.

- Impact on student housing on affordability
- Section 8 Voucher Assistance
- Consider "carrot and stick" approach for requiring affordable housing from developers
- Look into ways to increase housing stock and for those developments to be centered around transportation corridors
- Look into affordable housing incentives by "points"
- Expand payment in lieu to include transportation costs
- Talk to public transportation groups about providing services to additional locations
- Look into tracking affordable housing stock/rental program

### **IV. Town of Hillsborough**

There are two affordable housing projects underway in the Town of Hillsborough as described in the Memorandum included as **Attachment VI**. One is a 233 unit development that will provide, for the first time, payment in lieu of developing affordable housing, and the other is a planned affordable townhome development in the Waterstone Community.

## V. Orange County Affordable Housing Coalition

The Orange County Affordable Housing Coalition (OCAHC) was formed in April 2013; its mission statement is: “Local affordable housing providers and advocates will collaborate to develop a vision and strategies for affordable housing development and preservation in Orange County.”

Members of the OCAHC currently include Habitat for Humanity, Community Home Trust, Self-Help Credit Union, Empowerment, CASA, Jackson Center, Orange County Partnership to End Homelessness, Justice United, Arc of NC, TOCH Housing Department and the Centre for Homeownership and Economic Development. Members of other nonprofit agencies, for-profit developers and consultants attend meetings when relevant to the agenda. The committee meets monthly and members collaboratively participate in other initiatives, taskforces, etc.

The priority issues of the OCAHC are:

1. Increase local funding for affordable housing;
2. Increase the supply of all affordable housing;
3. Help preserve existing affordable housing stock;
4. Make recommendations to local elected officials on affordable housing policies, regulations and development review processes.

Habitat for Humanity Executive Director Susan Levy is the primary contact for this group.

## VI. Community Home Trust – Interlocal Agreement (Charter)

The Community Home Trust has introduced the idea of the development of an Interlocal Agreement between the Home Trust and the four local governmental entities in the County that would detail the shared expectations of the Home Trust in addressing the affordable housing needs in the County. A more detailed memorandum from Robert Dowling explaining the rationale is attached as **Attachment VII** and a copy of the current draft of this Agreement is attached as **Attachment VIII**.

**FINANCIAL IMPACT:** None.

**RECOMMENDATION(S):** The County Manager recommends that the Boards receive as information at this time. However, given parallel work being done to address affordable housing issues in the Towns and in the County, there may be an opportunity to work together on these matters. Additionally, the County’s Consolidated Plan for Housing and Community Development Programs currently developed and utilized for eligibility for HUD funded programs could provide an opportunity to talk about the housing need and strategies. The update of the five-year plan is scheduled to get underway in 2014 to allow sufficient time for completing the task before April 2015.

## DRAFT PROPOSAL

### Orange County Clearinghouse Network

#### OCC Network Values

- Housing is a basic right and the foundation for success in life. All County residents benefit when everyone has a safe place to call home.
- Preparation is the most important step in the process and individuals should have the ability to choose the housing that best suits their individual needs. It is important to appreciate and support the evolution of their search for housing.
- Because housing resources are finite due to the limited number of programs and services available to Orange County residents would benefit from the operation of this proposed network of resources.

**Mission Statement:** Our mission is to heighten the general awareness of housing needs by providing a clearinghouse type referral network for organizations and individuals seeking information regarding affordable housing in Orange County.

**Objective:** To implement a resource referral housing network by establishing a central database with information about housing opportunities in Orange County.

**Design:** The Orange County Clearinghouse (OCC) Network will offer the following type of information

- Available housing Inventory for both rental and homeownership
- Local Affordable Housing Program Information
- Available federal and state housing programs
- Financial Literacy & Money Management Training
- Homebuyer Education Training
- Foreclosure Prevention Counseling Services
- Homeless Resources

**Operation:** The OCC Network will operate from the Centre for Homeownership & Economic Development (CHOEDC) office in Hillsborough and will be managed initially by volunteers during normal business hours. A dedicated phone line will be established to receive calls to answer questions and provide referral information.

**Long Term Goal:** The Clearinghouse Network would include a community based rental property listing service available to the general public.

**Funding:** The initial funding for the Clearinghouse Network will be provided by the Centre for Homeownership & Economic Development (CHOEDC) located in Hillsborough. Future funding will be solicited through U.S. Housing and Urban Development (HUD), Wells Fargo Foundation, PNC Foundation and local governmental entities.

**Timeline:** Implementation to begin July 1, 2014.



## Affordable Housing Plan

### Affordable Housing Strategy Statement:

The Town of Chapel Hill's goal is to increase the availability of and access to housing for households and individuals with a range of incomes, from those who are homeless to those in middle-income households. The Town of Chapel Hill will work with for-profit and non-profit housing providers to offer a variety of housing opportunities that will promote socioeconomic diversity; provide individuals with the ability to remain in Chapel Hill through different stages in their lives; and support employee recruitment and retention.

### Goal Statements

- 1) **Support solutions and programs that offer affordable housing options along the entire continuum of housing need**
  - a) Research and quantify the number, type, and location of affordable housing units that are needed and desired by the community
  - b) Maintain a commitment to providing affordable homeownership opportunities
  - c) Focus on the development of affordable rental housing for a variety of lifestyles, which includes studio units, supportive housing units, universal access units, and units for families
  - d) Support the reuse and redevelopment of property that can be developed into affordable housing
  - e) Research, develop, and identify funding sources for a middle-income housing program, such as a revolving loan fund
  - f) Support the ability for senior citizens to age-in-place or transition to affordable housing within the community
  - g) Work with affordable housing providers to develop a sustainable housing maintenance program
  - h) Develop a policy for the acceptance of an Inclusionary Zoning Ordinance payment-in-lieu option
  
- 2) **Advocate for a sustainable community that balances economic vitality, social equity, and environmental protection**
  - a) Ease the residential tax burden by increasing the non-residential tax base consistent with the principles of the Town's Comprehensive Plan
  - b) Evaluate the impact that adopted policies and regulations, such as the zoning regulations, neighborhood conservation districts and the urban services boundary, have on housing cost and development
  - c) Link affordable housing policies with transportation needs and costs
  - d) Work with community partners to support the rights of renters and landlords
  - e) Develop affordable, off-campus student rental housing along transportation corridors in order to reduce the conversion of single-family properties into student rental units
  - f) Address the development pressures on the Pine Knolls and Northside neighborhoods by supporting a housing and cultural preservation program in the neighborhoods
  
- 3) **Pursue creative partnerships on a local and regional level**
  - a) Continue efforts to streamline the Town's development review process to reduce the cost of development
  - b) Research and assemble incentive packages that encourage the development of mixed-income housing
  - c) Identify and develop local funding sources
  - d) Explore innovative solutions to reduce the cost of non-mortgage related housing costs such as energy expenses, homeowner association dues, and taxes
  - e) Expand the financial support available to non-profit housing providers both for operating and project expenses
  - f) Consider solutions that include partnering with the County, other municipalities, and major employers



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## Affordable Rental Housing Strategy

**Preface:** Chapel Hill residents value an inclusive community and want to support a broad range of housing options affordable by all. Those unable to find affordable rental housing in Chapel Hill include people we encounter every day. They are, for example, teachers and teacher's aides, young entrepreneurs, senior citizens, people who serve us in restaurants and shops and doctor's offices, creative artists, nonprofit social workers, and people we know in many other essential positions. Increasing our stock of affordable rental housing furthers the Chapel Hill 2020 Comprehensive Plan's (2012) emphasis on the need for affordable housing as well as the Town's Affordable Housing Strategy (2011).

**Goal Statement:** The goal of the affordable rental housing strategy is to increase the quantity and quality of rental housing affordable to all who want to live in Chapel Hill by promoting the development of new units and preserving existing units.



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## The unmet need for affordable rental housing

Most occupied housing units in Chapel Hill are renter-occupied: by one estimate (2011 American Community Survey), 11,640, or 54.2 percent of them. This is a much higher rate than the 39.7 percent renter occupancy for the Durham-Chapel Hill metropolitan statistical area as a whole.

A residential market study completed in 2010 estimated that between 2009 to 2014, approximately 1,257 new rental units would be needed to serve the Town's population:

- 706 serving households earning greater than 80 percent of the area median income (AMI)
- 290 serving households earning between 50 percent and 80 percent of AMI;
- 157 serving households earning between 30 percent and 50 percent of AMI;
- 104 serving households earning less than 30 percent of AMI.

Since 2009, the Town Council has approved development applications that include 539 rental units, all designed for households earning greater than 80 percent of AMI. The Town's inclusionary zoning ordinance cannot address rentals because of state laws against rent control.

EmPOWERment, Inc. and CASA are the only nonprofit housing providers actively working to preserve and create affordable rental units serving households earning less than 60 percent and 30 percent of AMI. Each receives substantial subsidy (HOME, CDBG, local funds).

In 2013, 30 percent of the area median income for a family of four in the Durham-Chapel Hill MSA is \$20,300; for a one-person household, 30 percent is \$14,250. Assuming that 30 percent of gross income can reasonably be applied to housing expenses, households at this income level can afford rents including utilities of approximately \$0 to \$500 (family of 4) per month.

At any given time, approximately 300 people are on the Town of Chapel Hill's public housing wait list and 1800 are on the housing choice voucher (Section 8) program waitlist. Demand far exceeds supply. Both programs mainly serve people with incomes of less than 30 percent of the AMI. Approximately 85 percent of households on the Section 8 waitlist have incomes below 30 percent of AMI; the waitlist has been closed for over two years, and the wait averages four to five years. Approximately 80 percent of households on the Town's public housing waitlist are in this income range; the average wait is around a year.

Another important target population in this income range is people who are disabled and homeless. Permanent supportive housing units provide this population both an apartment and essential services, such as mental health and physical health care. Demand for these units vastly outstrips supply, with approximately 50 people on waitlists in Orange County at any time. HUD requires communities that receive funding for homeless programs to calculate their unmet need for such housing each year. In 2013, using HUD's formula, Orange County determined that approximately 42 additional units of permanent supportive housing are needed.



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## Policy framework, definitions, and broad implementation strategies

### **Prioritize affordable rental.**

This strategy document reflects the Town's strong policy objective to facilitate the efficient production of affordable rental units and to work continuously to support rental housing availability for households of all income. This policy is part of a larger strategy to increase and support the availability of both rental and ownership affordable housing.

The most pressing need for affordable housing is for working families and individuals with incomes less than 80 percent of AMI. Creating new housing for these households in a timely manner requires a new clarity of regulations and a new process that is responsive to the needs of affordable housing funding sources and nonprofit providers. Benefits from a shortened process for approval of rental development applications with a 15 percent or more affordable housing component<sup>[1]</sup> could extend to housing for 80-120 percent AMI households and households with greater income. The expansion of the rental housing market at all price ranges will provide increased price competition for existing and new rental units, a benefit to households at all income levels.

### **Strengthen the Town's resources devoted to affordable rental.**

Maintaining a high priority on affordable rental housing will require dedicated attention beyond existing staff resources. As has been done with respect to economic development, the Town should elevate affordable housing (ownership as well as rental) to a level for which a senior staff position has responsibility. This staff member would have the duty to champion the need, to seek out new ideas, and to bring these ideas into conversation with housing providers, policymakers, and the community. Just as critically, this staff member would take the lead in implementing this strategy and would serve as point of contact for developers of affordable housing projects.

Consistent with the vision of an advisory board that focuses on affordable housing issues as discussed as part of Chapel Hill 2020, an affordable housing board should be created to advise the Council, staff, and developers on the full range of issues (for the ownership model as well as rentals) that arise with respect to affordable housing. The senior staff member with responsibility for affordable housing would work closely with this board.



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[1] Defined as on-site housing of 15 percent or more of the market rate units that will be for households with incomes less than 80 percent AMI.

### **Definitions**

The Town recognizes two broad classes of need for affordable rental housing: (1) Rental housing that addresses the market at 80-120 percent area median income (sometimes called “workforce housing”) for which the expectation is that the private market will be the provider. (2) Subsidized rental housing that serves people earning up to 60 percent of AMI, a range that qualifies for the low-income tax credit program, and through the 80 percent AMI level for which various other subsidies (e.g., HUD entitlement dollars) are available. Public housing is an important component the subsidized portion of the housing continuum.

### **Implementation**

Implementation will require concerted effort from policymakers, Town staff, members of the non-profit and for-profit development community, and the community at large. The Town should build on the following broad implementation strategies as it continues address the problem of affordable rental housing creatively and opportunistically.

1. To reduce barriers to market entry for all levels of affordable rental housing, the Town must work proactively to create new development standards, or modify existing standards or processes, and regularize its expectations. These changes to existing processes should allow more decisions regarding affordable housing developments (rental and ownership) to be addressed at the staff level.
2. Because the citizens of Chapel Hill value inclusivity and have expressed the need for greater housing affordability, an element of the strategy for affordable rental should include the dedication of tax dollars to the cause.
3. Increasing the supply of affordable rental housing should be a Council Goal, and toward that end, the staff should maintain an accountability system that tracks the implementation of this strategy, with regular reports provided to Council.
4. To facilitate affordable rental development in the subsidized ranges, the Town must work proactively with nonprofit housing providers to pursue funding opportunities from all identifiable funding sources, public and private, ranging from HUD to local foundations and employers.



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5. The Town should encourage market-rate developers to partner with nonprofit housing providers to serve the subsidized rental market when opportunities arise.
6. Recognizing that affordable rental is a regional issue, the Town should maintain ongoing collaborations with Carrboro, Orange County, Hillsborough, Durham County, and other area jurisdictions.
7. As the largest employers in Chapel Hill, UNC-Chapel Hill and UNC Health Care are stakeholders of particular importance. The Town should make consistent efforts seek collaborative solutions with both organizations for the affordable rental needs of their employees.
8. The Town's efforts to grow the commercial tax base, generating increased property and sales taxes, contribute to a holistic strategy to support affordable rental and all affordable housing.
9. A cohesive communications strategy is essential to maintain community support for these efforts. Keeping the need for affordable rental housing in front of the community needs to be part of a larger message about housing affordability. The communications strategy should involve the Town Council, Town committees and staff, and citizen advocates.
10. The Town should continue to draw upon UNC-Chapel Hill's academic and research resources to identify proven and novel approaches to spurring the development and preservation of affordable rental and all affordable housing.



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## **Short-term, mid-range, and long-range implementation strategies**

### **Short-term strategies (0 – 2 years)**

- a) Pursue a Low-Income Housing Tax Credit (LIHTC) project on Town-owned land.
- b) Identify an additional publicly or privately owned “opportunity site” suitable for 2015 Tax Credit application.
- b) Establish with tax dollars a new dedicated revenue source for affordable housing, including rental, for example .01 on the tax rate.
- c) Dedicate senior staff support for implementing this strategy.
- d) Initiate high level conversations with UNC and UNC Health Care.
- e) Create a shortened review process for rental development applications with a 15 percent or more subsidized affordable housing component.
- f) Use the LUMO development revision process to initiate regulatory changes to facilitate approval of affordable rental in all target income ranges, for example:
  - i) Revise the LUMO to facilitate multifamily units in appropriate locations by right.
  - ii) Revise the zoning atlas to facilitate more multifamily and compact development projects.
- g) Establish useful incentives to encourage development of affordable rental in all target income ranges, for example:
  - i) Increased density by right and shorter approval time frame for developments that include units up to 80 percent AMI.
  - ii) All of the above plus fee reimbursements and expedited review for subsidized rental developments that include units up to 60 percent AMI.
- h) Implement expedited review process for subsidized affordable housing developments (rental or ownership).
- i) Identify other properties that may be appropriate for redevelopment and encourage the production of affordable rental units through the use of incentives.
- j) Create a resource data base for affordable housing by December 2013.
- k) Establish performance measures and an evaluation system to monitor progress by spring 2014.



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### **Mid-range strategies (2-5 years)**

Continue to work on all items in short-term strategies.

- l) Pursue and actively campaign for an affordable housing bond for Chapel Hill. Arguments for the bond should be clear and particular, reflecting this affordable rental strategy and broader specific housing goals.
- m) Partner for ambitious development that includes affordable rental on Greene Tract.
- n) Acquire and preserve vacant land along transit corridors for future affordable (rental and ownership) development.
- o) Partner to purchase, rehabilitate, and hold older inexpensive apartment complexes.
- p) Create incentives for reuse of existing property as affordable rental housing.
- q) Fund land bank to acquire land for future affordable housing (rental and ownership) development.
- r) Explore redevelopment of park & ride lots, underused open space, and other “found” land.
- s) Provide rental subsidies for households earning less than 60 percent AMI.
- t) Integrate the strategies of managing the Town’s public housing units into the broader planning for the continuum of affordable housing. Enhance the Town’s transitional housing program to support households that are able to move out of public housing communities.
- u) Seek legislative authority to ban landlord discrimination on the basis of income source (e.g., Section 8 vouchers).

### **Long-range strategies (5 + years)**

Continue to work on all items in short-term and mid-range strategies.

- v) Continue to pursue low-income housing tax credit projects throughout the Town.
- w) Evaluate existing and establish new revenue sources for affordable housing.
- x) Explore the feasibility of development of new public housing units.

**ATTACHMENT B****Affordable Housing Task Force Recommendations**

(Submitted by Aldermen Coleman, Slade, and Johnson, December 4, 2012)

At the close of four meetings, the Affordable Housing Task Force identified two areas of recommendations to share with the full Board of Aldermen: modify the Land Use Ordinance (LUO) to allow more flexibility in the way that developers can meet the Town's affordable housing goals, and consider ways to create funds to use toward affordable housing.

With regard to potential amendments to the LUO, the Task Force focused on two distinct areas: A) the payment in-lieu option and B) the small house (size-limited) requirement. The full complement would include the following four elements.

- 1) Reduce the number of affordable units from 15 percent to 12 percent, while also reducing the cost of the unit from 80 percent AMI to 65 percent AMI (Area Median Income).
- 2) Add more flexibility to the program by allowing developers to build some units and pay some payment in lieu fees for other units—but requiring a minimum of 5% built units
- 3) Retain the density bonus only for the built units, allow developers to use the affordable housing density bonus ratio only for those units actually constructed (units paid for using the in-lieu of option would not count toward the density bonus allotment), providing the bonus only on built units provides an incentive for developers to build more houses and make fewer payments in lieu.
- 4) Examine the existing provision in the LUO that allows developers to build some affordable housing units in the 40 percent required open space area, and consider possible modifications. For example, allow developers, who agree to construct the full 12 percent of affordable units, to construct a portion of those units in the open space area so long as the open space is not less than 20 percent of the project site.

The Task Force also discussed the issue of federal and state affordable housing funds, which have diminished significantly during the economic recession and are unlikely to return to earlier levels. The Town may wish to consider an affordable housing bond or allocating existing funds from Town resources to use toward an affordable housing purpose, such as buying land or establishing a revolving loan program. Another potential use of affordable housing funds would allow the Town to purchase affordable units, which have received their certificates of occupancy (CO) but have not yet been purchased to a qualified homebuyer through the Community Home Trust program. Developers have indicated that the holding costs for developers waiting for these housing to be purchased can become a substantial burden.

A number of other ideas were discussed, some of which the Board may wish to consider as part of a more comprehensive approach toward a long-term affordable housing strategy. These include up-zoning for density increases, particularly in key locations along public transportation routes. And, finally, creating or encouraging the creation of an affordable housing advocacy group—a private or non-profit coalition building effort to continue to keep the issue in the forefront and to promote local affordable housing needs within the community and to state and federal legislators.

***Affordable Housing Dialogue Sessions: Results and Recommendations***  
**A Report to the Board of Aldermen from the**  
**Planning Board and the Transportation Advisory Board**

In October 2012, the Planning Board held three Affordable Housing Dialogues aimed at educating and engaging the public and itself around this important issue. The sessions were the first of what will become an annual observance of National Community Planning Month, sponsored by the American Planning Association. Dialogue topics included:

- Housing Diversity and Affordability in Carrboro
- Financial and Systemic Issues Affecting Housing Affordability and Access in Carrboro
- Creative and Collaborative Solutions: Case Studies and Community Visioning

Turnout was good, with 71 individuals attending at least one session and an average 36 people attending each night. Participants included affordable housing practitioners and advocates, residents of affordable housing, neighborhood residents affected by affordability issues, architects and planners, students, staff from the Town of Carrboro, Town of Chapel Hill, and Orange County, advisory board members, aldermen, and county commissioners. Participants offered positive and constructive feedback on evaluation forms, including suggestions for outreach and publicity that will help increase racial and ethnic diversity in future events.

The Planning Board was grateful for the support of the Board of Aldermen throughout the series, especially from the Affordable Housing Task Force. In total, four aldermen were able to attend at least one session. Two partners also were extraordinarily helpful: the NC Housing Coalition provided a host of research, data, and facilitation support, and the UNC Department of Regional Planning provided meeting facilitation, publicity, and offers of future assistance. All of this assistance was provided to the Town free of charge.

Presentation materials, discussion notes, and evaluation results are posted on the Town's website. What follows is a summary of participant perceptions, feedback, and ideas; a set of recommendations to the Board of Aldermen; and supporting data and analysis provided by the Transportation Advisory Board.

### **Summary of Key Data**

The NC Housing Coalition provided an increasingly extensive set of data to fuel conversations over the three sessions. Particular discussion drivers included the following statistics:

- Of 19,582 residents in Carrboro, 14.4% are students and 23.7% are foreign-born.
- There are 9,408 housing units in Carrboro, of which 36% are owner-occupied and 64% are renter-occupied. As a comparison, Chapel Hill’s housing units are 48% owner-occupied and 52% renter-occupied.
- Area median income for a family of four in Carrboro is \$63,308, higher than in North Carolina overall (\$59,872) but lower than in Chapel Hill (\$75,178) and Orange County (\$68,700). Eighty percent of Carrboro’s area median income is \$50,646, which is the figure that the US Department of Housing and Urban Development would consider as low income in its definition of affordable housing for a qualified family of four.
- The fair market rent for a two-bedroom apartment in Carrboro and Chapel Hill is \$864 per month, which contrasts with the statewide fair market rent of \$709.
- The mean renter wage in Carrboro is \$9.67 per hour, much lower than the statewide mean renter wage of \$12.11. At this wage, a head of household must work 62 hours per week to afford a two-bedroom apartment at the fair market rent.
- Not surprisingly, 53% of renters in Carrboro are cost-burdened, meaning they spend more than 30% of their wages on housing costs. Similarly, 55% of homeowners are cost-burdened by their housing.
- Thirty percent of Carrboro workers commute to employment outside Orange County. More than 4,000 workers commute to Orange County in order to work.

**Trends in Housing and Affordability Locally and Nationally**

In addition to considering data, participants aired and discussed the following local and national trends that are making affordable housing an increasingly urgent concern:

Local Trends	
<ul style="list-style-type: none"> <li>• Rental housing is going condo</li> <li>• Flat wages yet housing costs rising</li> <li>• Lack of affordable land and buildable lots</li> <li>• Growing immigrant population</li> <li>• ‘Small’ housing does not equal ‘affordable’ housing</li> <li>• Density is needed for successful development of affordable housing</li> <li>• Desirability of the area (transit, green, schools) leads to higher cost housing.</li> <li>• Lack of infrastructure due to OWASA services boundary</li> <li>• Reduced minority ownership</li> <li>• Property taxes are high</li> </ul>	<ul style="list-style-type: none"> <li>• Slow movement on real opportunities, such as the Green tract</li> <li>• Low quality of affordable units</li> <li>• Lack of retail/commerce for people with lower incomes</li> <li>• Lower income people require access to transit—areas being developed don’t necessarily have this.</li> <li>• Gentrification</li> <li>• Increased reliance on finance and developers role</li> <li>• Permitting process is a cost restriction</li> <li>• Big rental management companies are driving up rental costs.</li> </ul>

### Relevant National Trends

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Sellers market transitioned to a buyers market</li> <li>• Transit-oriented development (TOD)</li> <li>• Collapse of mortgage market</li> <li>• Local government bonuses (not just density bonuses) are given in other places</li> <li>• Mixed use development is a national trends</li> </ul> | <ul style="list-style-type: none"> <li>• Affordable housing bonding is happening successfully in California.</li> <li>• Partnerships with developers</li> <li>• Rehab assistance is being used successfully to help some populations stay in their homes</li> <li>• Misperceptions of low-income people makes some people resistant to affordable housing, especially if built near them.</li> </ul> |
|--|--|

## Housing Targets and Priority Goals

With quantifiable data and the aforementioned trends undergirding their discussions, dialogue participants wrestled with a series of difficult questions related to their vision for affordable housing and quality life in Carrboro.

### *Priority Demographics*

While the Town’s current policies are designed to increase access of affordable homeownership opportunities, dialogue participants were equally concerned about the growing need for affordable family rental units; for housing that serves the homeless and at-risk, including the disabled; and for low-wage workers earning less than 60% of area median income. Participants emphasized a vision for diverse housing options—and a diverse economy—that allow people to live and work in Carrboro.

### *Priority Goals for Affordable Housing in Carrboro*

Participants acknowledged there are many possible goals to achieve in designing and implementing affordable housing. While narrowing possible goals to a manageable list proved difficult, three goals resonated most with participants:

**Increasing the supply of affordable housing units.** Participants cited development density and related restrictions; relative underutilization of the Low-Income Housing Tax Credit in Orange County and Carrboro; and the need to incentivize affordable housing development through a more predictable process and interpretation of guidelines, streamlined project reviews, and more direct, bottom-line incentives.

**Increasing the quality of housing stock while maintaining affordability.** Participants bemoaned the declining quality of the lower-priced—but not necessarily affordable—housing in town. “We need to demand more,” said one participant, referring to landlords and property management companies. Participants wondered whether creative policies and

incentives could encourage the rehabilitation of older rental units while preserving relative affordability. Poor quality, they agreed, should not be the benchmark for affordable rent.

**Helping people stay in the homes they have (both owners and renters).** Participants were concerned about four dynamics: continuing foreclosure risks due to predatory lending and the continuing recession; property taxes that inordinately burden fixed-income seniors and other low-income owners; the need for additional rehab/repair assistance for low-resource owners and landlords; and the vulnerability of unemployed renters and the disabled, who are subject to changes in Social Security Disability Insurance payments.

### ***The Importance of Transportation***

A consistent theme throughout the discussion was the importance of public transportation. Lack of access to public transportation increases residents' cost of living, and members of the Transportation Advisory Board (TAB) urged that transportation costs be included in any definition of "affordability." Unfortunately, most new housing development is being created in places without transit routes. Furthermore, weekend bus routes that pass through downtown Carrboro are far too limited. Ironically, parking requirements for housing and mixed-use developments further burden residents who do not drive or own a car. Attachment 2, ***Transportation Costs and Housing Affordability***, was crafted and contributed by the TAB and offers a detailed analysis of the relationship between transportation and housing in Carrboro.

### ***A Word About Students***

Many participants raised the issue of the ever-increasing student market as a driver for higher rents. Not only does high student demand for units reduce availability of units better suited for families, but owners charge more for units demanded by students given the number of occupants likely to be sharing the rent. Some participants blamed the university for a lack of housing options on campus, yet the university has a substantial number of vacant on-campus units. According to university statistics, 2,820 students live in Carrboro.

Co-facilitator Carley Ruff of the NC Housing Coalition pointed out that the vast majority of renters in Carrboro are *not* students. Student demand influences but does not fully account for the housing dynamics in town. Ruff suggested approaching this market issue from a different angle, engaging UNC around affordable housing as a partner-contributor, rather than as an adversary. "Students help sustain the town in other ways," she said. "Use their growth and needs as a tool to also meet the needs of the town."

## Ways to Support Affordability in Carrboro

Participants offered a diversity of experience, perspective, and creative approaches to achieving a high-quality, diverse, and more affordable housing environment in Carrboro. Of the dozens of suggestions, the following surfaced most frequently:

- **Increased housing density.** Reduced open space requirements and planning for major redevelopment opportunities well in advance could alleviate price pressure caused by current land use policies. In addition to relieving supply-related pressures, participants noted that higher-density housing is particularly senior-friendly; creates efficiencies in urban services; and can lead to innovations in attractive, livable design.
- **A dedicated revenue stream for affordable housing.** Participants cited the City of Durham’s Penny for Housing tax (which is actually half a penny) and municipal or county bond issues.
- **Community education** aimed at reducing misperceptions about affordable housing and low-income people, and shifting housing preferences and expectations toward zero-lot-line housing options.
- **Modified land use restrictions, zoning, and approval processes** to increase both predictability and efficiencies for developers when affordable housing is involved.
- Understanding and accessing the state’s new **tenant-based rental assistance program** for the disabled.
- **Innovative and nontraditional housing models**, such as new-style boarding houses, equity-building rental models, and sustainable living models that compress housing density while increasing open space.
- **Help developers make better use of the Low-Income Housing Tax Credit**, which is the federal government’s main engine for new units. Developers particularly need local subsidy or donated or reduced-price land for workable tax credit projects.
- **Publicly funded land acquisition and banking** specifically for affordable housing.
- **A housing trust fund** that can be used for emergency escrow, rent subsidy, down payment assistance, or matching funds for individual development accounts.

Two somewhat controversial issues also surfaced that are worth mentioning here. The first is **inclusionary zoning** that would require a percentage of new homeownership units in a development be affordable. Some argue that this strategy creates greater uniformity and certainty for developers. Facilitators helped clarify the different kinds of inclusionary zoning (mandatory, voluntary, and conditional) and outlined legal concerns that generally deter municipalities from adopting inclusionary rules. They also noted that municipalities have seen mixed results from their policies, particularly as they only apply to homeownership stock.

Nonetheless, when asked to choose a handful of tools for their vision for Carrboro, a majority of participants in the third dialogue chose inclusionary zoning for their toolbox.

The second issue was infrastructure, particularly the constraints of the **urban services boundary**. As one participant noted, “Without allowing water and sewer to be provided for workforce and affordable housing outside the urban services boundary, we will develop very few new single-family, duplex, or townhome developments that are well suited for families with school-age children.”

Others disagreed, citing opportunities to explore innovative development solutions that can increase diverse housing stock while preserving the intent of the rural buffer. The issue was raised multiple times by different stakeholders, and suggests that residents would like to see additional public discussion about the rural buffer in the context of affordability and livability in Carrboro.

### **Joint Recommendations from the Planning and Transportation Advisory Boards**

During discussions and on evaluation forms, participants were clear that increasing and maintaining housing affordability in Carrboro requires a collaborative, interdisciplinary approach with strong leadership by the Board of Aldermen. Both the Planning Board and the TAB agree

In December, the Board of Aldermen’s Affordable Housing Task Force made three preliminary recommendations specific to the Town’s chief policy tool:

- Modify affordable homeownership set-aside requirements from 15% to 12%.
- Reduce the affordability target from those earning 80% of area median income to those earning 65% of area median income.
- Modify payment-in-lieu policies to ensure a minimum 5% of built units are affordable.

These recommendations are consistent with the tenor of the dialogue sessions, and the Planning Board and TAB support them. However, like the Task Force, these advisory boards recognize there is more that can be done to align Town policies with the community’s vision and goals. While not all members agree on all points, the following recommendations are offered for further consideration and discussion by the Task Force, Board of Aldermen and community stakeholders:

1. Make the Affordable Housing Task Force a standing committee of the Board of Aldermen, and expand it to include other public and private stakeholders, such as advisory boards, affordable housing developers, and advocates. The Task Force should be charged with actualizing Vision 2020 policy section 6.0: *to develop a comprehensive housing policy that seeks to provide housing for all of Carrboro's citizens* (see Attachment 1). This policy should be developed, vetted, and approved by December 2013 and should include clear defining terms and measurable goals against which the Board of Aldermen can measure progress and modify policy over the long term.
2. In that comprehensive policy, consider a staggered approach to income targeting and goals, such that people along the income continuum of very low (less than 50% of median income), to low (50% - 80%) to moderate income (80% - 115%) can benefit in some way from Carrboro's policy efforts and investments.
3. Include transportation costs associated with housing location in the Town's consideration of "affordable housing" definitions and calculations. Consider the location and frequency of bus service, as well as walking and bicycling network distances to non-residential destinations when estimating household-level transportation costs. A more complete understanding of affordability will help the Town better identify policies, ordinances and subsidy necessary to achieve a comprehensive housing vision. Engaging Chapel Hill Transit and Triangle Transit in housing discussions could open the door for improved transit frequency and routes.
4. Modify parking requirements in the Land Use Ordinance for in-town apartment and condominium housing, especially in areas where public transportation is readily available. This would result in greater density, would unbundle parking costs from housing costs, and would encourage more creative transportation and parking solutions in development design.
5. Facilitate greater density in new ways. Look at re-zoning infill projects to allow for multifamily housing, connected housing, and zero lot line housing. Consider revising current limitations on or conditions for secondary units, particularly near downtown.
6. Question long-standing policies and our tolerance for the unintended effects of those policies. For example, consider how the current 40% open space requirement and the recreation space requirement impact housing affordability, environmental issues, tax rates, and monthly maintenance costs for homeowners. Ask how open

- space can be made accessible to greater numbers of residents than to just those living in quasi-private housing developments. Ask whether current policy adequately weighs the value of open space against some standard for public benefit. Asking hard questions will help the Town better align policies with its visions for both affordability and sustainability.
7. Review all vacant or non-revenue-generating publicly- and privately-owned land, including parking lots, and identify tracts available for affordable housing or commercial uses that support affordable living.
  8. Develop a master land use plan that clearly displays overlay districts and roadway network connectivity. Such a plan will help developers better understand development and redevelopment priorities and opportunities in Carrboro. If zoning follows the plan, it is reasonable and rational and will hold up in court in the event of a legal challenge.
  9. Research effective rental registry models, including the program in Athens, Ohio, and determine the efficacy of a similar program here to protect renters and neighborhoods from further deterioration of housing stock. (It is unclear whether state statutes allow rental registries, but there may be similar ways to achieve the same objectives.)
  10. Collaborate with affordable housing providers, Orange County government, the university, and others to establish a public-private housing trust fund as a permanent source of matching funds for new construction, rehabilitation, or refinancing of affordable rental and homeownership units. Direct all new payments in lieu to this housing trust fund.
  11. Support local and statewide advocacy efforts that will preserve or expand the resources and tools available to affordable housing developers, managers, and residents. Examples include:
    - financially supporting the creation of an Orange County Affordable Housing Coalition or similar organizing effort;
    - joining and participating in the education and advocacy programs of the NC Housing Coalition;

- reviewing and commenting on proposed state and federal policy or regulatory changes affecting affordable housing, public transportation, utility rates, and living wages;
  - providing letters of support for local applicants to state and federal funding programs.
12. Increase opportunities for the Town’s advisory boards to engage with each other, town staff, and the Board of Aldermen around planning, economic development, and transportation issues that are better approached collaboratively rather than in silos.

## Attachment 1: Vision 2020: Housing Category

### 6.0 HOUSING

The town should develop a comprehensive housing policy that seeks to provide housing for all of Carrboro's citizens.

#### 6.1 Housing for a Diverse Population

- **6.11** Town policy should accommodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.
- **6.12** The variety of strategies to be considered should include the investigation of alternative public and private funding for construction and renovation of low and moderate income housing. A low interest loan pool for individuals and nonprofits that wish to buy and rehabilitate housing is desired.
- **6.13** The town should review all vacant municipally owned land for the purpose of making unneeded tracts available for housing programs.
- **6.14** The town should continue to advocate for inclusionary zoning techniques to increase the local stock of affordable housing.
- **6.15** The town should pursue the development of density bonus provisions for projects incorporating environmentally sensitive development and building practices.
- **6.16** With our growing population of senior citizens, the town should support the creation of more housing that allows our senior citizens to interact fully with the larger community. Senior access to public transit will become an increasingly important concern.
- **6.17** The town should interact with non-profit groups that work to provide affordable housing, including but not limited to the Land Trust, Orange Community Housing Corporation, Empowerment Inc., and Habitat for Humanity.
- **6.18** A minimum of 15 percent of the residential units in any residential development should meet the affordability criteria specified in Section 15-182.4 of the Carrboro Land Use Ordinance.

## Attachment 2: Transportation Costs and Housing Affordability An Analysis by the Transportation Advisory Board

- The proposed definition of affordable housing, i.e. “housing that is valued at less than 80% of AMI” is not sufficiently inclusive. It must include transportation costs associated with housing location.
- According to AAA’s annual *Your Driving Costs*, the average American spends **\$8,946 a year** to own, operate, insure and maintain one sedan car or nearly **\$750/month per car**.
- The average cost per mile driven is **59.6 cents**<sup>1</sup>. According to the *2009 National Household Travel Survey*, the average household made **9.5 trips per day**, with an average trip distance of **9.7 miles**<sup>2</sup>. To illustrate the import of considering household-level transportation costs, consider the following scenarios:
  - The average American household making 9.5 trips per day, driving 9.7 miles each trip, will drive 92 miles driven per day at a cost of \$0.596 per mile, which is about \$55 a day or **\$1,650 a month** (\$55 x 30 days).
  - A plausible no car alternative in a two-worker household might involve purchasing two 31-day regional passes from TTA for \$68 x 2 = \$136; renting a car an average of four days a month from Enterprise = \$52.64 x 4 = \$210.56<sup>3</sup>; and keeping two bikes maintained at an average cost of \$60/month. Monthly transportation costs = (\$136 + \$210.56 + \$60) = **\$436.56**.
- The hidden cost of residential parking directly impacts people living in condo and apartment housing. Carrboro’s Land Use Ordinance requires an average of 1.5 car parking spaces per bedroom and 2 spaces per unit with two or more bedrooms<sup>4</sup>. Yet, one in 10 households in Carrboro have no vehicle available (this figure is **more than 15 percent** for single-person households and **more than 13 percent** for 4-or-more-person households<sup>5</sup>). This has implications for projects like Shelton Station, where the increase in housing unit cost per parking space will range from **\$50,000 and \$70,000**<sup>6</sup>. Unbundling parking costs from

<sup>1</sup> <http://newsroom.aaa.com/tag/your-driving-costs/>

<sup>2</sup> <http://nhts.ornl.gov/2009/pub/stt.pdf>

<sup>3</sup> [http://www.enterprise.com/car\\_rental/location.do?selectedLocationId=5330&transactionId=WebTransaction1](http://www.enterprise.com/car_rental/location.do?selectedLocationId=5330&transactionId=WebTransaction1)

<sup>4</sup> <http://www.townofcarrboro.org/PZI/PDFs/LUO/Art-xviii.pdf>

<sup>5</sup> [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?\\_afpt=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?_afpt=table)

<sup>6</sup> Greenberg, A. (2005). *How new parking spaces may effectively increase typical U.S. urban housing total unit costs by \$52,000 to \$117,000*. Paper presented at the 84<sup>th</sup> TRB Annual Meeting.

housing costs presents greater housing options for people who cannot afford a vehicle and for those who choose to live without one.

**From Northeastern University’s Dukakis Center for Urban and Regional Policy:**

“Residential parking is generally provided as an inseparable part of housing arrangements: a parking space is part of the apartment lease or condominium purchase. The price of parking can, however, be separated or ‘unbundled’ from that of the housing either if developers and landlords choose to do so or if municipal regulators so require. As San Francisco’s Metropolitan Transportation Commission has explained, ‘Unbundling parking is an essential first step towards getting people to understand the economic cost of parking and providing users with the opportunity to opt out of parking and make alternative travel decisions. **Without unbundled parking, tenants experience parking as free, while transit costs them money**’” (MTC, 2007, p. 31).<sup>7</sup>

**Figure 1** on the following page displays the variation in vehicle ownership by 2010 Census Tract in Carrboro.

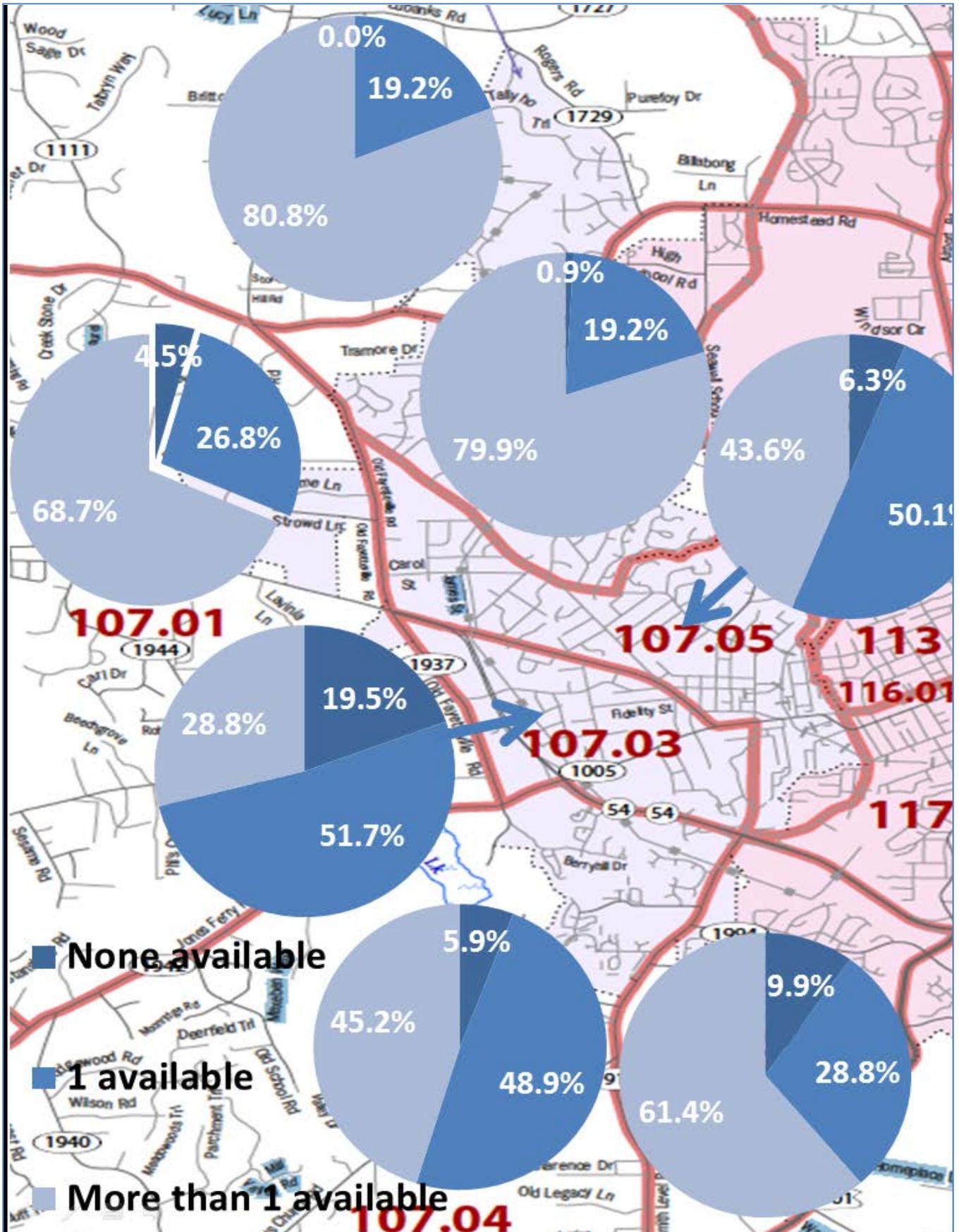
**Figure 2** on the final page displays results from the Center for Neighborhood Technology’s *Housing and Transportation Affordability Index*. The map on the left shows the distribution of households (by 2010 Census-defined block groups) where housing costs are both less than and greater than 30 percent of the households’ income—30 percent is commonly considered the cut-off point for household-level housing affordability. Households that allocate more than 30 percent of the combined household’s income toward housing costs are considered “cost burdened”. The map of the right shows the distribution of household where housing costs AND household location-derived transportation costs are both less than and greater than 45 percent of the households’ income. Households that allocate more than 45 percent of the household’s income toward housing and transportation are also considered cost burdened. Figure 2 illustrates how cost burdened status might apply to more of Carrboro’s households after including household transportation costs into estimates of housing affordability.

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<sup>7</sup> <http://www.dukakiscenter.org/unbundled-parking/>

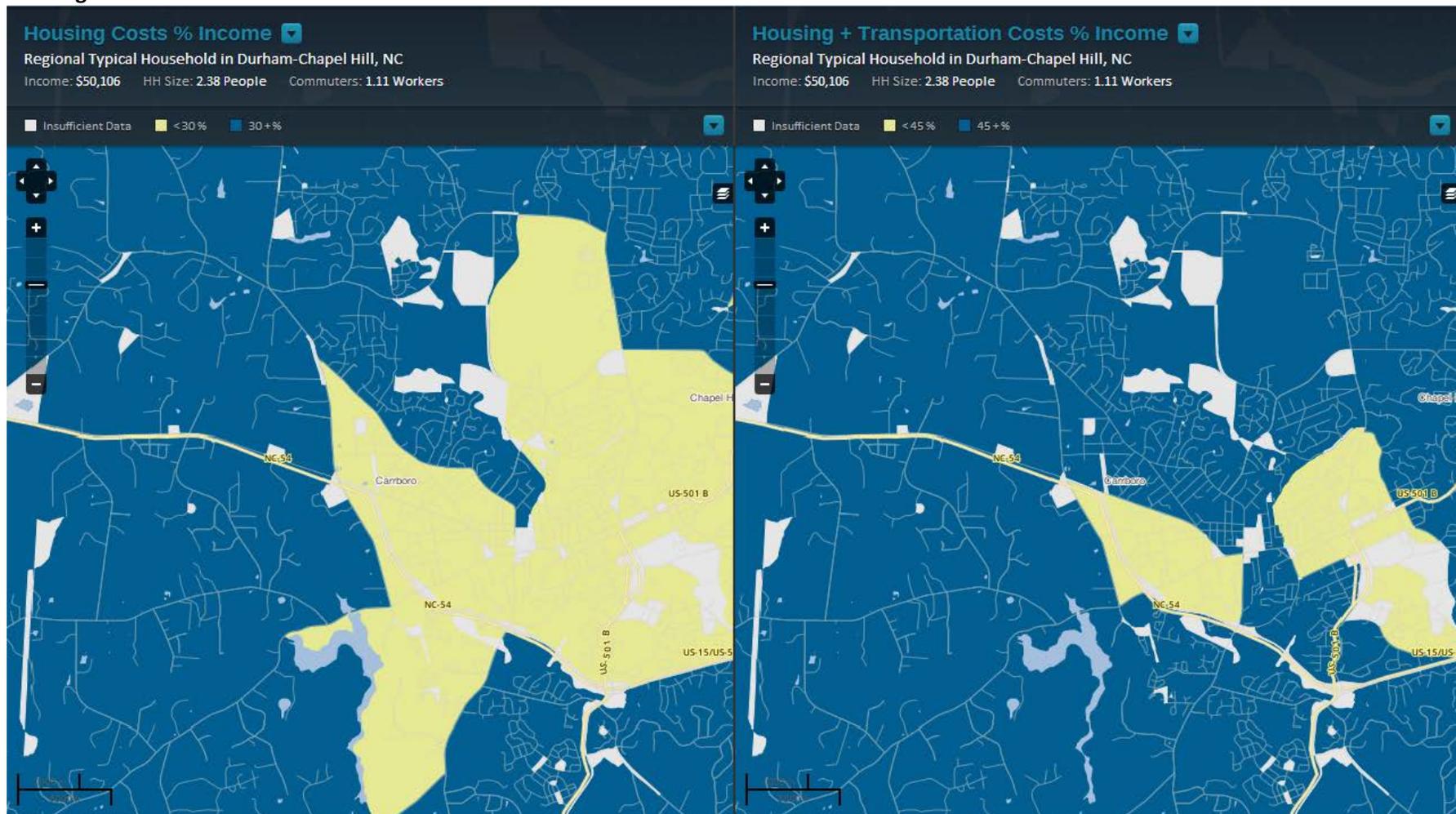
### Vehicles Available by 2010 Census Tract in Carrboro

Figure 1.



## Housing + Transportation Costs in Carrboro, NC<sup>8</sup>

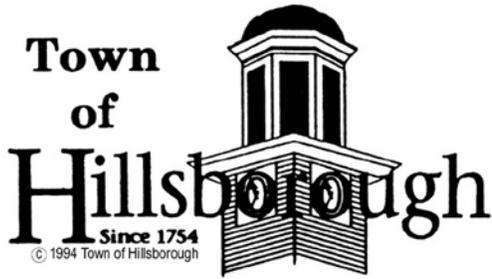
Figure 2.



### Methodology

The H+T Affordability Index is a model that describes the relationships between three dependent variables (auto ownership, auto use, and transit use) and independent household and local environment variables. Neighborhood level (**Census block group**) data on household income (both median and per capita), household size, commuters per household, household density (both residential and gross), street connectivity (as measured using average block size and intersection density), transit access, and employment access are the independent or predictor variables.

<sup>8</sup> <http://htaindex.cnt.org/map/>



## MEMORANDUM

To: Board of Orange County Commissioners  
 Carrboro Board of Alderman  
 Chapel Hill Town Council  
 Hillsborough Town Board of Commissioners

From: Margaret A. Hauth, Planning Director

Date: November 8, 2013

RE: Affordable Housing payments and set asides in Hillsborough

In 2009, the Town Board approved a Special Use Permit for the first project in Hillsborough to offer a payment in lieu of developing affordable housing. The project (Forest Ridge) will contain 233 dwellings of a variety of types on 118 acres across from the SportsPlex on US 70 Business. A map of the approved lot layout is attached.

The owners offered to town a payment of \$1,000 per dwelling, due with issuance of the Zoning Permit for each unit constructed. The final payment will be \$7,000, to bring the total contribution to \$240,000. The project has walking trails that connect to the Mountains to Sea Trail and the town's Riverwalk which will allow residents to walk downtown as well as walk to the SportsPlex.

The project has approved construction drawings and is anticipated to start site infrastructure construction this month.

On a related note, the developers of Waterstone provided land and preliminary engineering services to reserve land for 24 affordable townhome units in their project, combined with a per unit contribution toward construction. Development of the market-rate townhomes is expected to start late this year or early in 2014, but a schedule has not been established for the affordable townhomes.

The Town does not have a specific plan in place yet for the expenditure of the payment in lieu funds, but a variety of programs have been discussed. A plan will likely be finalized during the FY15 budget discussions.



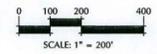
S I T E P L A N  
**F O R E S T R I D G E**  
 HILLSBOROUGH NORTH CAROLINA

**SITE DATA**

SITE AREA:	118.4 AC
<b>RESIDENTIAL SUMMARY:</b>	
13,000 SF LOTS	72
9,200 SF LOTS	71
6,000 SF LOTS	52
TOWNHOMES	38
<b>TOTAL UNITS:</b>	<b>233</b>
<b>NON-RESIDENTIAL SUMMARY:</b>	
MAX. OFFICE/RETAIL	28,000 SF

**LEGEND**

- 13,000 SF LOTS
- 9,200 SF LOTS
- 6,000 SF LOTS
- TOWNHOMES
- OFFICE/RETAIL
- STORMWATER PONDS



**WITHERS & RAVENEL**  
 ENGINEERS | PLANNERS | SURVEYORS



Date: November 14, 2013

To: Orange County Board of Commissioners  
Chapel Hill Town Council  
Carrboro Board of Aldermen  
Hillsborough Town Board of Commissioners

From: Robert Dowling, Executive Director  
Re: Community Home Trust Charter

BOARD OF  
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Maryann Toone

Jonathan Weiler

Executive  
Director  
*Robert Dowling*

As most of you know, Community Home Trust is a nonprofit organization that provides affordable housing to low and moderate income households in Orange County. The Home Trust receives financial support from all the local governments and implements inclusionary housing policies in Chapel Hill and Carrboro (and perhaps soon in Hillsborough). As a result of changing circumstances, the Home Trust has faced a variety of challenges in recent years, including reduced mortgage financing options, an increase in condominiums and increased turnover of our housing stock.

As a result of these and other factors, the Home Trust board asked the Town Council to consider creating a Charter that would better define the roles and responsibilities of the Home Trust. The Council agreed that an interlocal agreement among the four local governments and the Home Trust was warranted. The County Commissioners have also recently discussed the role of the Home Trust and whether we should be selling condominiums in high end developments.

Based upon these discussions, an initial meeting of staff from each local government and the Home Trust took place last summer. It was agreed that Home Trust staff would draft an initial Charter (or interlocal agreement) that is intended to establish a shared set of expectations as to what affordable housing functions the Home Trust would provide to the citizens of Orange County. Given the limited capacity of the Home Trust staff, it would benefit all parties to establish an agreed upon set of expectations and responsibilities, both of the Home Trust as well as of the local governments.

**If we all agree that a shared Charter is in all of our interests, we would ask the Assembly of Governments to appoint a representative from each government to a working group that would be charged with drafting a Charter. That working group could consist of elected officials who have served or will serve on the Home Trust board of directors. Of course, Home Trust board and staff would welcome participation as well.**

The board and staff of the Home Trust are privileged to manage the inclusionary housing policies in Orange County but we fully recognize that our success would not be possible without your support.

NORTH CAROLINA  
ORANGE COUNTY

**DRAFT**  
**Community Home Trust Charter**

THIS AGREEMENT made and entered into by and among the Orange County (hereinafter “County”), the Town of Carrboro, the Town of Chapel Hill, the Town of Hillsborough (hereinafter “Towns”), each being a general local governmental unit of the State of North Carolina and Community Home Trust (hereinafter CHT), a 501(c)3 corporation.

WHEREAS, County and Towns agree that it is desirable and in the interests of their citizens to provide affordable housing to low and moderate income individuals and families, to ensure that such housing remains affordable in perpetuity and to have much of that housing administered and managed by a non-governmental entity;

WHEREAS, County and Towns were responsible for the creation of the predecessor organization to CHT in 1990;

WHEREAS, CHT revised its organizational structure and model for providing housing in 1999 at the behest of County and the Towns;

And WHEREAS County and the Towns have provided financial operating support to CHT for many years;

NOW, THEREFORE, the County, the Towns and CHT agree as follows:

**Section 1. Definitions**

- A. Low Income means households that earn 80% or less of the Area Median Income (AMI) in the Metropolitan Statistical Area (MSA) in which Orange County resides, as published by HUD.
- B. Moderate Income means households that earn 115% or less of the Area Median Income (AMI) in the Metropolitan Statistical Area (MSA) in which Orange County resides, as published by HUD.
- C. HUD means the United States Department of Housing and Urban Development.

**Section II. Purpose of Charter**

Since all of CHT’s homes are in Orange County, and since virtually all of CHT’s work is driven by inclusionary housing policies that are supported by County and Towns, this Charter is intended to establish a shared set of expectations as to what affordable housing functions CHT will provide to County and Towns. County and Towns recognize that a shared and agreed upon set of expectations and responsibilities will reduce uncertainties and allow County and Towns to best utilize the expertise and experience of CHT.

### **Section III. Agreement**

- A. Term of Agreement** - The term of this Agreement begins with the effective date of January 1, 2014 and ends June 30, 2014. It is expected that this agreement or an amended version of this agreement will be renewed on an annual basis beginning July 1, 2014. It is recognized that the funding portions of this agreement will not take effect until at least July 1, 2014.
- B. CHT Board Representation** - County and Towns are entitled to appoint a representative to the board of directors of CHT. According to the CHT bylaws, one-third of the board of directors will be CHT homeowners, one-third will be appointed persons (by County, Towns and the University of North Carolina at Chapel Hill (hereinafter UNC), and one-third of the directors will be members of the community who support the work of CHT. County and Towns' appointees to the board of directors enable County and Towns to remain informed of the work of CHT and in fact, to exert influence over that work.
- C. Responsibilities and Expectations of CHT** - Since 2003, CHT's work load has been dominated by the implementation of inclusionary housing programs, particularly in the Towns of Chapel Hill and Carrboro. In the future, CHT may also manage inclusionary housing in the Town of Hillsborough. CHT can also serve in this same role for the County. As a result of inclusionary housing, CHT's inventory of affordable homes has increased from one home in 2000 to more than 210 homes as of the date of this agreement. It is agreed that CHT's primary roles and responsibilities are the following:
1. Create and maintain homes that are affordable to low and moderate income households. Low income households earn 80% or less of the area median income as provided by HUD. Moderate income households earn no more than 115% of area median income;
  2. The CHT board is responsible for the health and well-being of the organization and will ensure the organization is well managed and able to meet the expectations of County and Towns;
  3. The CHT board of directors will hire, periodically evaluate and, if necessary, replace the organization's executive director;
  4. Sell homes using the community land trust (CLT) model, wherein homes are conveyed to buyers using a 99-year ground lease. CHT will be expected to continually revise its model to meet changing circumstances and to reflect best practices.
  5. Advocate for affordable housing policies at the local, state and national levels.
  6. Implement and manage inclusionary housing programs as requested by Towns and County. This requires a wide variety of tasks and responsibilities, including, but not exclusively, the following:

- a. CHT staff works with developers on pricing, siting and other aspects of affordable housing within proposed developments that include ownership housing;
- b. CHT is responsible for the initial sales of affordable housing units and securing necessary subsidies; this requires executing purchase contracts with both developers and home buyers;
- c. CHT typically purchases a fee simple interest in real estate from developers and simultaneously conveys a leasehold interest to income-eligible buyers;
- d. CHT does not purchase inclusionary homes from developers until an income-eligible buyer is able to secure financing and close on the property;
- e. CHT is responsible for educating prospective home buyers and offering financial counseling to both buyers and current homeowners;
- f. In 2007, CHT informed County and Towns that the organization faced challenges regarding long-term affordability and long-term maintenance of its housing inventory;
- g. Since 2007 CHT has worked to ensure the long-term maintenance of its affordable homes by collecting monthly stewardship fees from its homeowners. Stewardship funds, which are segregated from operating funds, are designed to pay for big-ticket maintenance items such as new roofs and HVAC replacement;
- h. Since more than 100 CHT homes were sold prior to the start of the stewardship program, these homes did not have stewardship funds available until they resold (some have still not resold). As of the date of this agreement, approximately 66 of CHT's homes still are not in the stewardship program;
  - i. As the pre-stewardship homes resell, CHT is obliged to seed the stewardship accounts for the new buyers;
  - j. CHT manages three homeowner associations in which all the homes are within the affordable housing inventory. As of the date of this agreement these associations are: Legion Road Townhomes, Rosemary Place Townhomes and Greenway Condominiums;
- k. CHT works with homeowner associations and management companies that manage inclusionary neighborhoods in which the affordable homes represent only a small portion of all the homes in the association. These are neighborhoods such as Larkspur, Vineyard Square, Claremont, etc. CHT seeks to ensure assessments are paid and that regulations are evenly enforced;

- l. CHT works with homeowners, lenders and legal counsel when owners are in default to prevent foreclosure;
- m. CHT strives to prevent foreclosures by paying off bank loans, terminating ground leases, and reacquiring properties. Paying off bank loans requires that CHT maintain adequate liquid reserves;
- n. CHT occasionally is required to take legal action against owners who are in breach of their ground lease;
- o. CHT oversees repairs to homes before reselling them to low and moderate income buyers;
- p. CHT is responsible for all resales of homes within its affordable housing inventory. Owners of these homes do not pay a commission to CHT;
- q. If necessary to sell a home, CHT pays a referral fee to Realtors who provide an income-eligible buyer who closes on a CHT property;
- r. CHT is responsible for financial management of its portfolio
- s. CHT will earn/raise a portion of its operating revenues through earned income on home sales, property management fees, ground lease fees, fundraising and other means permissible by the IRS;

**D. Resources required by CHT** - In order to successfully perform its roles and responsibilities, CHT requires both financial operating support from County and Towns, as well as input into decision-making, particularly with regard to inclusionary ownership housing. Specifically, County and Towns agree to the following:

1. Each local government will agree to a funding methodology that provides additional operating support as new inclusionary homes are added to the CHT inventory. It is recognized that this methodology may vary for each of the participating governments;
2. An agreed upon staff compensation formula that is based upon compensation offered at County and Towns
3. An agreed upon level of operating reserves and project reserves that rightfully should be maintained by CHT. As of the date of this agreement, the board of directors of CHT has established operating reserves of \$350,000 and project reserves of \$400,000
4. CHT can be most effective if allowed flexibility to manage its portfolio of affordable homes without constantly seeking permission from County and Towns. Therefore, operating guidelines will be developed for the following circumstances;
  - a. Selling homes to households above 80% of AMI
  - b. Selling homes out of the affordable housing inventory
  - c. Selling homes to households that do not meet locally imposed requirements, such as first-time homebuyer requirements, live/work requirements, etc.

- d. Repaying subsidies embedded into homes that are sold out of the affordable inventory or sold to moderate income households
5. When new development applications are expected to include affordable housing units that CHT will administer, the applicable local government will seek input from CHT as to how and whether the proposed units are best incorporated into the affordable housing stock;
6. If CHT is expected to implement a particular housing policy for County or Towns, the applicable local government will consult with CHT to obtain input prior to initiating a new policy or requirement that will impact CHT's work.
7. As County and Towns revise their inclusionary housing policies, they will solicit input on proposed changes from CHT;
8. County and Towns will promote their inclusionary housing policies with their own employees and support CHT's efforts to sell homes to local government employees;

**E. Being Accountable to County and Towns**

1. CHT will provide required documentation for every sale and resale of a property that includes subsidies provided by the local governments;
2. CHT will provide a quarterly report to County and Towns with information about sales, subsidies, challenges and other requested data;
3. CHT will provide an annual audit to the County and Towns;
4. CHT will provide interim financial statements as requested;
5. CHT will provide data on home sales, subsidy use and other indicators as requested;

**TOWN OF CARRBORO**

\_\_\_\_\_

**Town Manager**

**ATTEST:**

\_\_\_\_\_  
**Town Clerk**

**NORTH CAROLINA  
ORANGE COUNTY**

This is to certify that on this day personally came before me \_\_\_\_\_, with whom I am personally acquainted, and being by me duly sworn, says that \_\_\_\_\_ is the Town Manager, and that she the said \_\_\_\_\_, is the Town Clerk of the Town of Carrboro, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said \_\_\_\_\_ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Board of Alderman of the Town of Carrboro and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**TOWN OF CHAPEL HILL**

\_\_\_\_\_  
**Town Manager**

**ATTEST:**

\_\_\_\_\_  
**Town Clerk**

**NORTH CAROLINA  
ORANGE COUNTY**

This is to certify that on this day personally came before me \_\_\_\_\_, with whom I am personally acquainted, and being by me duly sworn, says that \_\_\_\_\_ is the Town Manager, and that she the said \_\_\_\_\_, is the Town Clerk of the Town of Chapel Hill, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said \_\_\_\_\_ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Town Council of the Town of Chapel Hill and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**TOWN OF HILLSBOROUGH**

\_\_\_\_\_

**Town Manager**

**ATTEST:**

\_\_\_\_\_

**Town Clerk**

**NORTH CAROLINA  
ORANGE COUNTY**

This is to certify that on this day personally came before me \_\_\_\_\_, with whom I am personally acquainted, and being by me duly sworn, says that Eric Peterson is the Town Manager, and that she the said \_\_\_\_\_, is the Town Clerk of the Town of Hillsborough, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said \_\_\_\_\_ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Town Board of the Town of Hillsborough and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**ORANGE COUNTY**

\_\_\_\_\_  
**County Manager**

**ATTEST:**

\_\_\_\_\_  
**County Clerk**

**NORTH CAROLINA  
ORANGE COUNTY**

This is to certify that on this day personally came before me Donna Baker, with whom I am personally acquainted, and being by me duly sworn, says that \_\_\_\_\_ is the County Manager, and that she the said Donna Baker, is the Clerk to the Board of Commissioners of the County of Orange, the body politic and corporate named within and which executed the foregoing instrument; that she knows the common seal of said County; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said County Manager and that the said County Manager and said Donna Baker subscribed their names hereto and said common seal was affixed, all by order of the Board of County Commissioners of Orange County and that said instrument is the act and deed of Orange County.

Witness my hand and notarial seal, this the \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**ORANGE COUNTY  
ASSEMBLY OF GOVERNMENTS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** November 21, 2013

**Action Agenda  
Item No.   2**

**SUBJECT:** Solid Waste Updates Regarding Future Recycling/Waste Reduction Initiatives

**DEPARTMENT:** Solid Waste Management

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

No

**ATTACHMENT(S):**

- A) Recycling Service Options Report –  
Chapel Hill November 6 Work  
Session
- B) November 19 BOCC Regular  
Meeting Abstract
- C) Draft Outline of Interlocal  
Agreement for Recycling/Waste  
Reduction & Solid Waste
- D) Draft Letter of Intent
- E) Follow-up to Key Questions Raised  
with Regard to Urban Curbside &  
Multi-Family Services as Provided  
by Orange County Community  
Recycling Program
- F) Summary of Solid Waste and  
Recycling Services – April 2013

**INFORMATION CONTACT:**

Michael Talbert, 919-245-2308  
Gayle Wilson, 919-968-2885

**PURPOSE:** To provide an opportunity for each jurisdiction to present an update of local solid waste management issues and specifically to discuss each Town's intentions with regard to the provision of future recycling/waste reduction services or waste transfer operations.

**BACKGROUND:** The following updates are provided by each jurisdiction:

**Town of Chapel Hill**

On June 21, 2013, a Request for Proposals (RFP) for Implementation of Recycling Services and Development of Transfer Station was issued as a joint initiative among the Towns of Chapel Hill, Carrboro and Hillsborough. During a Work Session on November 6, 2013, Chapel Hill Town Council received results from the recycling portion of the RFP (see Attachment A). Based on preliminary cost data from the County, the cost of the County's curbside recycling services is comparable with the proposal costs submitted from the private firms. To better understand the County's cost data, Town Council has requested to receive additional information about the specific services provided by the County's recycling program to Chapel Hill residents and the projected program costs over the next five years.

(Please note that Attachment E from County staff provides follow-up information from the November 6 Town Council meeting and a previous meeting involving staff.)

### **Town of Carrboro**

The Carrboro Board of Aldermen received an update on recycling services at its November 12, 2013 meeting. The Board expressed its intent to continue the partnership with Orange County for recycling services and voted to authorize staff to negotiate a letter of intent with Orange County to charge and collect a fee for urban curbside recycling within the town limits. The Board also expressed an interest in working with the County to explore an organic (food waste) recycling/composting program. Town staff was authorized to submit a grant application to the North Carolina Department of Environment & Natural Resources for Roll-carts to support the recycling program and/or a potential future organic recycling/composting program.

### **Town of Hillsborough**

At this point it is Hillsborough's intention to collaborate with Orange County for the enhanced recycling service. Over the years, Orange County Recycling has provided excellent service to Town residents and the Town plans on entering into the interlocal agreement for recycling/waste reduction and solid waste.

### **Orange County**

Orange County staff provides updates on the following items:

#### **Storm Debris Management Planning**

County solid waste staff has recently obtained approval from the BOCC for two new emergency storm debris processing sites. One is conveniently located on Millhouse Road, across from the Chapel Hill Operations Center. The second is located on Mincey Road, north off of Highway 57. There is also a smaller site at the existing landfill on Eubanks Road.

The County has also finalized agreements with two firms for Removal, Reduction, Recycling and/or Disposal of Federal Emergency Management Agency (FEMA) Eligible Debris in the event of an emergency storm event. County Solid Waste staff has been working for the past two years with the County Emergency Services Department to improve the emergency debris management planning and preparedness, including updating the Disaster Debris Annex to the County's Comprehensive Emergency Response Plan.

#### **Upgrade to Eubanks Road Solid Waste Convenience Center**

The Eubanks Road Solid Waste Convenience Center is currently in the advanced planning stages to receive a complete reconstruction and modernization similar to that conducted at the Walnut Grove Church Road Solid Waste Convenience Center in northern Orange County. The new center will be at the same location of the existing center.

Below is a list of features incorporated into the proposed improvements for this project:

1. Improved traffic flow to increase onsite disposal activity efficiency;
2. Improved customer safety with the use of separate levels for users and service vehicles;

3. Improved transportation of waste off site using compactors to increase load capacity and reduce the number of vehicle trips;
4. Improved user experience with paved surfaces limiting dust, and permanent/movable site signage to direct customers, and lower material loading height
5. Incorporation of the Household Hazardous Waste (HHW) program into the site to provide additional operational hours for collection (moving HHW from existing location on the south side of Eubanks Road);
6. Relocate the landfill scales to the north side of Eubanks road to position them closer to the active construction and demolition landfill, reducing the traffic on Eubanks Road;
7. Create a single entrance that will be shared between the convenience center and the landfill to minimize the number of driveways;
8. Increase on site queuing to greatly reduce the potential for traffic to back up onto Eubanks Road;
9. Possible extension of sanitary sewer and water to the site;
10. Addition of recyclable materials such as plastic film, residential food waste, cooking oil, textiles, etc.; and
11. Generally, shifting most operations from south of Eubanks Road to the northern side and away from surrounding neighborhoods.

County staff has recently met with Chapel Hill Planning staff to introduce the preliminary site plan and discuss the permitting process. Plans are also being made to develop a temporary waste/recycling location to use while the existing center is under construction, although there may be reduced services available during this interim construction period. The construction schedule has not yet been developed.

#### Interlocal Agreement for Waste Management in Orange County

County and Chapel Hill solid waste staff collaborated on preparation of a draft outline for a new Interlocal Agreement for Solid Waste Management/Recycling (Attachment D) in anticipation of changes necessitated by the closure of the Municipal Solid Waste landfill and the restructuring of financing mechanisms for the Rural and Urban Curbside Services and the Multi-family Service due to elimination of portions of the 3-R Fee. Over several meetings last winter, the staffs examined potential issues of interest so that the Managers and elected boards could consider the process by which a new Interlocal Agreement could be more fully developed, negotiated and adopted. This outline was submitted to Carrboro and Hillsborough solid waste staff for their consideration. Town and County Managers also received this draft outline.

It is critical that a formal Interlocal Agreement be adopted by all parties before July 1, 2014, but sooner would be preferable, so as to clarify and inform all parties of responsibilities, obligations, limitations, etc. with regard to solid waste management and recycling in Orange County, including delineating funding sources. It would also be of interest to involve the University of North Carolina in the discussions at some point as well.

#### Roll-carts for Curbside Programs

County staff is ready to proceed to implement roll carts in both the Urban and Rural Curbside Recycling programs, following resolution of the organizational and financial arrangements with the Towns. It will not be reasonable to assume that both program implementations can be

performed simultaneously, so staff has recommended proceeding first with implementation of the Urban program because:

- There is no current funding source for Fiscal Year 2014/15 curbside or multi-family services
- Affects more residents
- Assumed easier to implement as Town residents have more experience using roll carts for garbage; less intense public education and outreach efforts (if Towns choose bi-weekly more education and outreach will be necessary)
- More efficient distribution due to density
- Long time expressions of interest and advocacy for roll carts
- Long delivery time (8-10 months) required for acquisition of new collection vehicles for Rural program indicates that there is time to address Urban program in that period of waiting
- Roll cart grant process requires that, as a condition of the grant, the program be implemented within one year of the contract being signed
- County is ready to proceed to bid Urban service and roll carts
- Rerouting will be somewhat easier for Urban with fewer density related challenges

The staff effort involved in planning and executing these cart implementations will be significant and staff wants the process to proceed smoothly, with minimal disruptions and difficulties. Therefore it is strongly advised that these two program cart conversions be done sequentially.

It is likely to require several months to successfully negotiate a new comprehensive Interlocal Agreement for Solid Waste and Recycling. Attachment E is a Letter of Intent for the Towns consideration that would allow the County to begin the Urban Curbside roll cart implementation process to allow for a July 1, 2014 implementation. This approach was discussed by the Managers who agreed that it be presented to their respective governing boards for consideration.

#### Financing of Solid Waste, Recycling and Waste Reduction Services

At present, it is the County's intention to maintain the Solid Waste Convenience Center Fee and the Basic Recycling Fee (3-R). The Rural Fee (3-R) will no longer be assessed and may be replaced by a Solid Waste Tax District. The financing as well as management of the Urban Curbside and Multi-family Recycling programs are currently under study by the Towns. County and Town discussions have concluded that the three Towns could assess the Urban and Multi-family Fee through statutory authority not available to the County. No final determinations have yet been made. All decisions must be made with the objective of implementation by July 1, 2014.

On November 19, 2013 the Board of Commissioners received a progress update regarding the County's intent to continue to provide urban curbside and multi-family recycling services for the Towns (see Attachment C). The County estimated cost for providing the urban curbside recycling services is competitive with the proposals received from private haulers and there appear to be some additional advantages for the County to continue managing this service. County staff is working with the Towns to proceed immediately with the Request for Proposals (RFP) process for collection services and cart acquisition by December 31, 2013. It will take approximately six months to complete the implementation process to convert to roll carts, including the bidding of the collection service and possible installation of a new service provider, and to execute a comprehensive community education and outreach program.

The financial impact of a new comprehensive Interlocal Agreement is not clear at this time and will depend on final decisions of the various Boards involved. The roll carts for the Urban program are expected to cost approximately \$1,043,250, minus about \$214,000 in municipal roll cart grants.

- Cost of weekly collection service is estimated at about \$682,000 annually, which is estimated to be \$60.00 annually or \$5.00/month.
- If the Towns choose to go to bi-weekly curbside recycling the estimated annual fee per household is estimated to be \$50.00 or \$4.17/month.
- The Multi-family program is estimated at this time to remain at about \$19/year/unit (or \$1.58/month).

**FINANCIAL IMPACT:** There are no financial impacts related to the presentation of solid waste updates or general discussion of solid waste services, facilities or programs.

**RECOMMENDATION(S):** The County Manager recommends that the Boards receive the updates and discuss issues, options, needs and processes relative to addressing current and future solid waste management matters in Orange County.



Attachment A

# Recycling Service Options

**November 6, 2013**

# Context

- By end of December 2013, a new funding method or recycling service option for curbside recycling services must be selected for implementation on July 1, 2014.

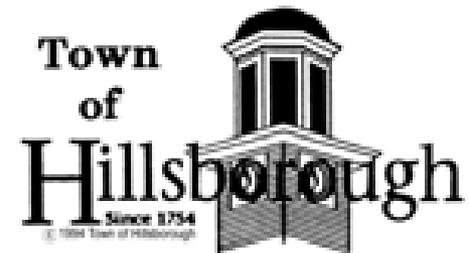


# Options

- Orange County has proposed 4 options:
  1. Create a Solid Waste Management Authority.
  2. Create a County Solid Waste Tax District.
  3. Implement Town provided curbside recycling services.
  4. Authorize the County to collect recyclables and charge fee for service.

# County's Option 3: Town Provided Curbside Recycling Services

- Towns of Chapel Hill, Carrboro and Hillsborough issued RFP to explore County's Option 3.



# Recycling Services Proposals

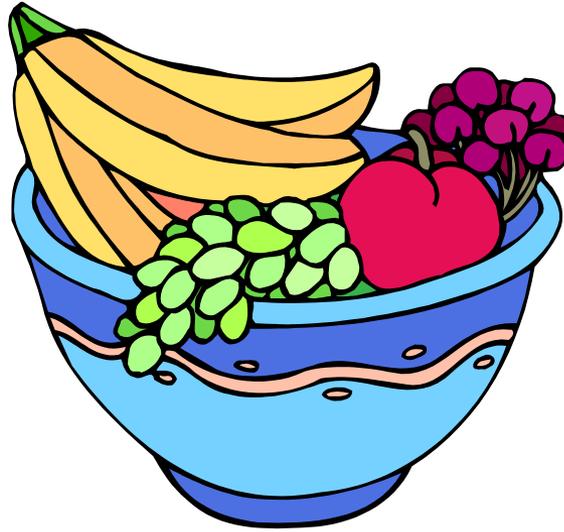
- Collection, Processing, and Marketing



WASTE INDUSTRIES

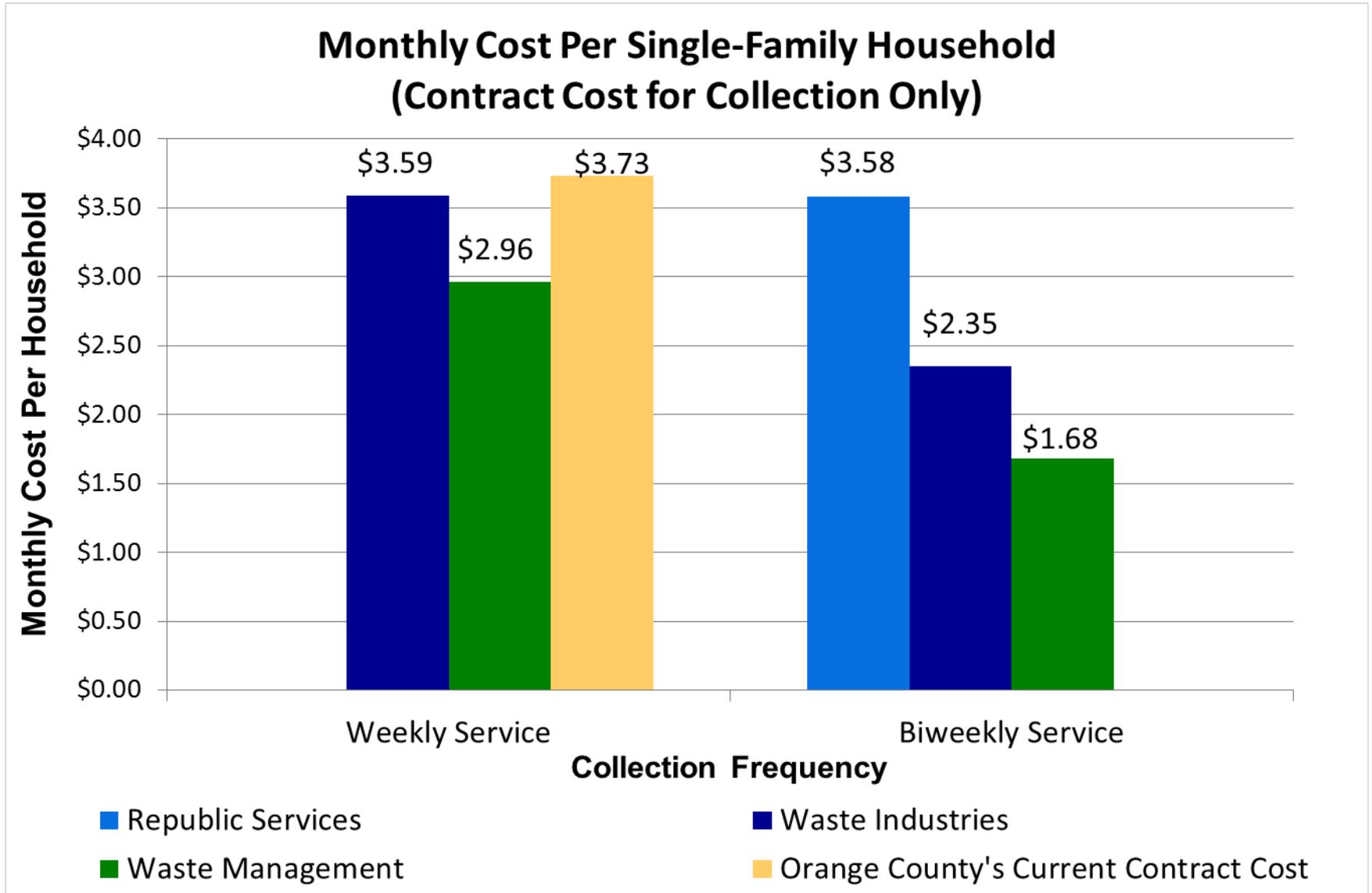


# Unique Proposals

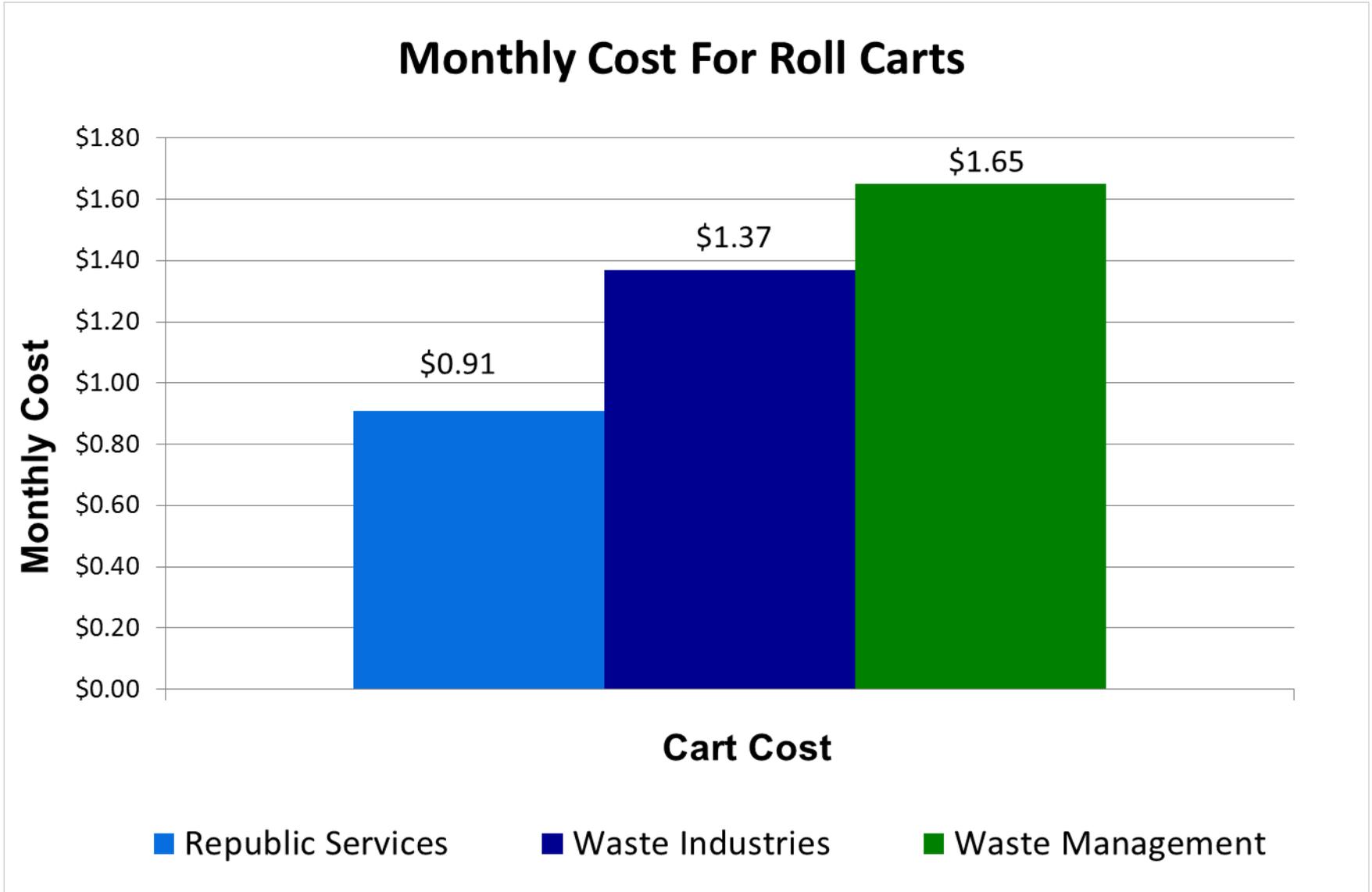


Not Apples To Apples

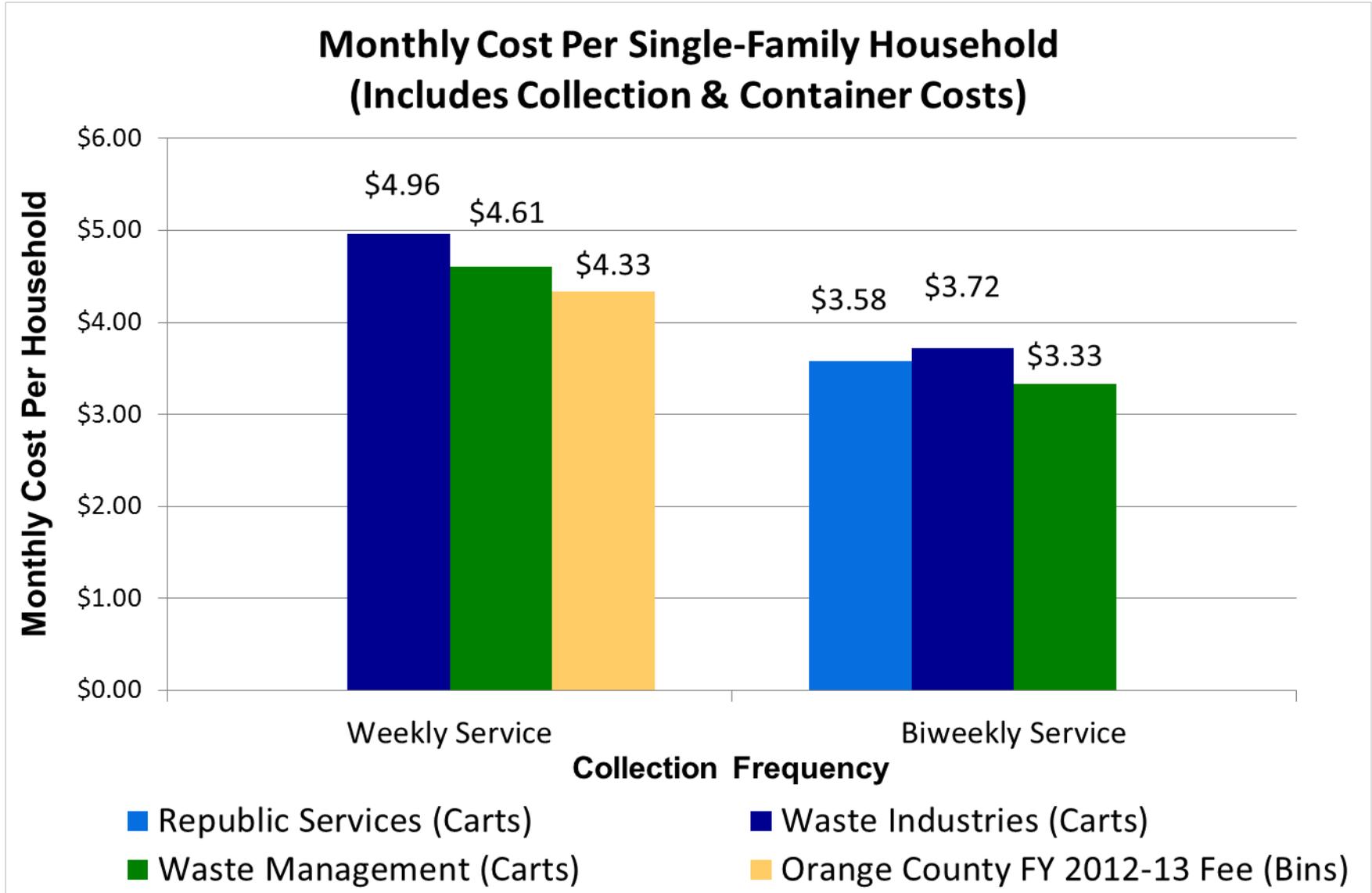
# Single-Family Cost Comparison



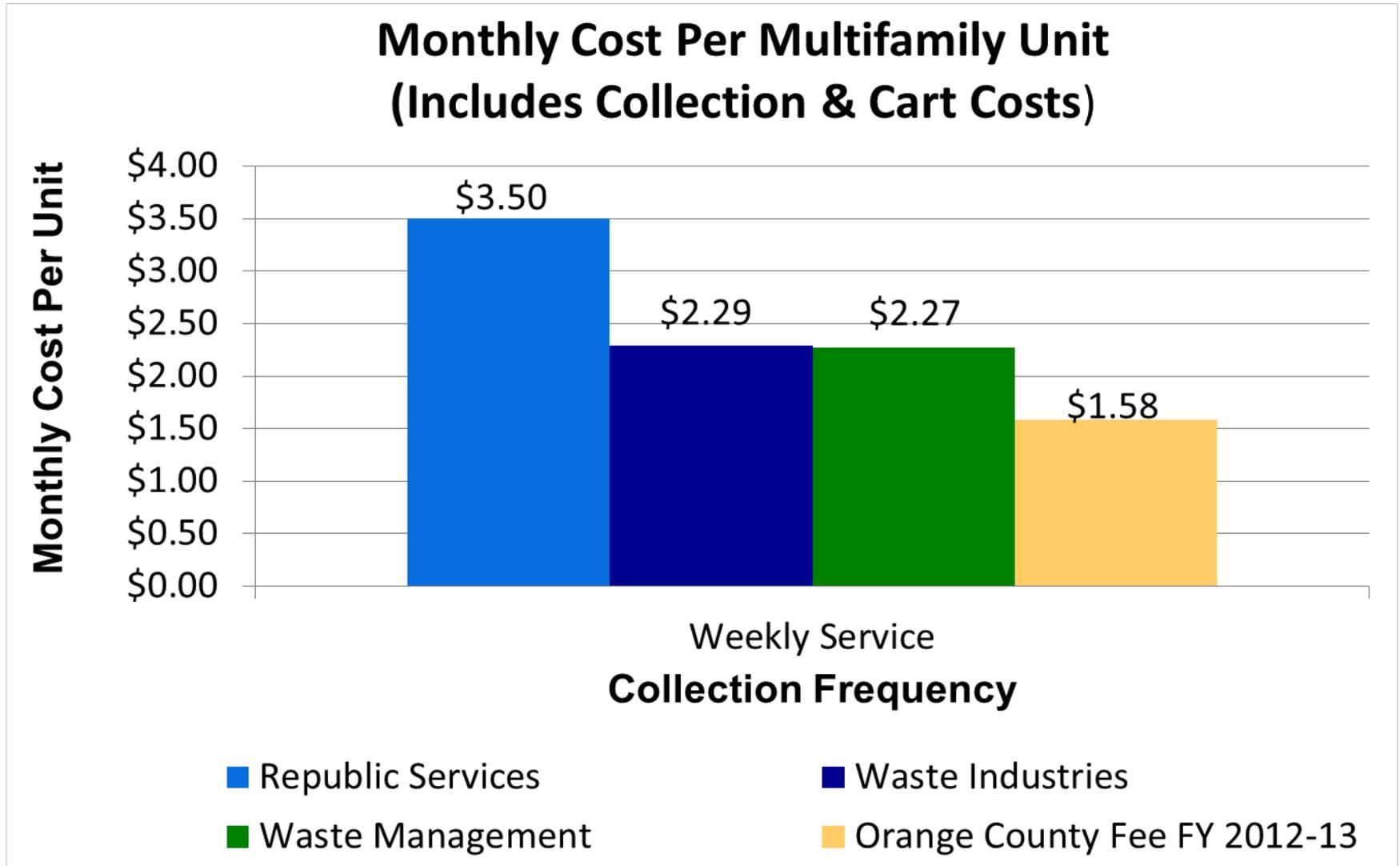
# Roll Cart Cost Comparison



# Single-Family Cost Comparison



# Multifamily Cost Comparison



# Comparison

- Comparing 3 proposals to each other
  - Waste Management has the most competitive cost for comparable services
  - Waste Industries' proposal would provide most continuity of service to residents with least impact to County operations
- Comparing 3 proposals to County's curbside program
  - County's fees from FY 2012-13 are comparable to private sector proposals

# County Program

- Advantages of continuing partnership with Orange County
  - Continuity of service
  - Technical staff currently in place to manage program
  - Good track record in diverting recyclables

# County Program

- Structure for funding County program
  - 3-R Fee
  - Assessed annually on property tax bill
- 3-R Fee has multiple components
  - Basic Services Fee
  - Multifamily Fee
  - Single-family Fee (Urban Curbside Fee)

# County Recycling Program Funding

Fee Type	FY 2012-2013 Fee	FY 2013-2014 Fee	FY 2014-2015 Fee
Basic Services Fee	\$37/unit/year	\$47/unit/year	Amount TBD
<b>Plus one of the following:</b>			
Multifamily Unit Recycling	\$19/unit/year	\$0	Amount TBD
Urban Curbside Recycling	\$52/unit/year	\$0	Amount TBD

# Roll Carts

- Switch from Bins to Roll Carts
  - Cost will be included in County's curbside fee
  - To implement carts this summer, purchase process needs to begin by first of 2014
- NCDENR Roll Cart Grant
  - Eligible for up to \$75,000
  - Grant ends after this fiscal year



# Recommendations

- Authorize Manager to develop interlocal agreement with County with following provisions:
  - Five year term
  - Set fees with identified multipliers
  - Performance measures
  - Participation by Town Managers in governance and decision-making for recycling services
- Provide notice of intent to County before end of year.
- Work with County to purchase roll carts for implementation next fiscal year.
  - Apply for NCDENR roll cart grant.

# COPY

ORANGE COUNTY  
BOARD OF COMMISSIONERS

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: November 19, 2013

Action Agenda  
Item No. 7-b

**SUBJECT:** Urban Curbside & Multi-family Recycling Discussion

**DEPARTMENT:** Solid Waste Management

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

No

**ATTACHMENT(S):**

Draft Letter of Intent  
Draft Interlocal Agreement (Staff Outline)  
November 6, 2013 Presentation to the  
Chapel Hill Town Council  
Summary of Solid Waste and Recycling  
Services – April 2013

**INFORMATION CONTACT:**

Michael Talbert, 919-245-2308  
Gayle Wilson, 919-968-2885  
John Roberts, 919-245-2318

**PURPOSE:** To update the Board of Commissioners on progress between the Towns and County regarding urban curbside and multi-family recycling services.

**BACKGROUND:** Over the past several months, the Towns and County have been considering various options with regard to the future of the long term recycling and waste reduction partnership and how Urban Curbside and Multi-family services would be funded. Previous 3-R Fee funding for those municipal services, along with the Rural Curbside program, were determined on the advice of legal counsel to not to be consistent with recent state court legal opinions.

The Towns, facing potential loss of County funding and management of these programs, elected to evaluate other options for obtaining these recycling services through the issuance of a Request for Proposals. The Towns' Managers and staffs have been evaluating the proposals received, had reached preliminary conclusions and wished to discuss and clarify various service and cost issues with County staff. On November 1, 2013 the County and Towns Managers and their respective staffs met.

There was the following consensus from the meeting:

- The County cost for providing the urban curbside recycling services was competitive with the proposals received from private haulers and that there may be some additional advantages for the County to continue managing this service;
- County staff will proceed immediately with the Request for Proposals (RFP) process for collection services and cart acquisition by December 31, 2013. County staff has

estimated an implementation process of six months to complete the conversion to roll carts, including the bidding of the collection service and possible installation of a new service provider, and to execute a comprehensive community education and outreach program. A draft letter of intent is attached to move urban curbside recycling forward, including the purchase of roll carts, while an Interlocal Agreement is crafted.

- The multi-family recycling collection service is proposed to be provided at the existing rate of \$19/year/household with services provided by County staff and equipment.
- Each Town will apply for the state roll cart grants that could total up to \$214,000 of the expected \$1,043,000 cart purchase expense. The County will assist the Towns with the grant applications, but the Towns will be the applicants for their respective grants. A procedure will be developed to allow the County to purchase the carts using any grant proceeds and County funds. The County will own, distribute, and maintain the roll carts for the Towns.
- The County Attorney will draft the interim agreement in cooperation with each Town Attorney and each Manager to approve prior to holiday break.
- The County and the Towns will proceed to finalize a new Interlocal Agreement (staff outline attached) as soon as possible in early 2014.

The Chapel Hill Town Council conducted a work session on November 6, 2014 to discuss the recycling proposals received in response to its Request for Proposals for Recycling and Request for Proposals for Development of a Transfer Station. A power point of the presentation to the Town Council is attached.

County and Town Managers is eager to solve the urban curbside recycling issue and to move forward again with county wide recycling and waste reduction programs and services.

**FINANCIAL IMPACT:** Full financial impact of a new comprehensive Interlocal Agreement is not clear at this time and will depend on final decisions of the various Boards involved. The roll carts are expected to cost approximately \$1,043,250, minus about \$214,000 in municipal roll cart grants, plus debt service paid over 60 months. The cost of a newly bid weekly collection service is estimated at about \$682,000 annually. The estimated annual fee for weekly curbside recycling per household is about \$60 (or \$5/month). The Multi-family program is estimated at this time to remain at about \$19/year/unit (or \$1.58/month). The estimated annual fee for bi-weekly curbside recycling per household is about \$50 (or \$4.17/month).

**RECOMMENDATION(S):** The Manager recommends that the Board authorize:

1. The Manager to execute the attached Letter of Intent with the Towns of Chapel Hill, Carrboro and Hillsborough when approved by the Towns;
2. The County Attorney, working with the Town Attorneys, to prepare an interim agreement that would allow the County to proceed to expedite implementation of the roll carts and new collection service for the Urban Curbside Program with the objective being full implementation by July 1, 2014 and authorize the Manager to execute the agreement; and
3. The Manager to award the bid for the roll carts not to exceed \$1,100,000.

## Interlocal Agreement for Solid Waste Management

Staff Draft Outline – March 2012

### **Construction & Demolition(C&D) and Municipal Solid Waste (MSW) Landfills**

- County to maintain financial, regulatory and environmental responsibility for operations, closure and for post-closure maintenance/monitoring
- County to monitor operation and performance of University Landfill Gas Recovery System
- County to provide ancillary services such as:
  - White Goods/Appliances
  - Scrap Tires
  - Scrap Metal
  - Clean Wood Waste
  - Vegetative waste
  - Mattresses
- Towns and County will, in support of the solid waste enterprise fund, direct C&D waste from projects where local government funding is utilized, including school construction and renovation, to the County C&D Landfill
- Towns and County will, in support of the solid waste enterprise fund, deliver white goods/appliances, vegetative wastes and scrap metal to County recycling facilities
- Tipping fees (if any) shall be established annually as part of the County budget process and become effective on July 1

### **Municipal Solid Waste Collection and Transfer**

- Carrboro, Chapel Hill, Hillsborough and Orange County will maintain authority and responsibility for MSW collected and transferred within their respective jurisdictions.
- Should the County or a Town (or Towns) plan, site and develop a waste transfer station consideration shall be given to parties of this Interlocal Agreement as to being able to use the transfer facility, subject to payment of prevailing tipping fees as established by the relevant governing body. These tipping fees shall be established annually as part of the regular budget approval process.
- County will develop, operate and fund Solid Waste Convenience Centers that accept residentially generated MSW, C&D, bulky waste, etc. for all County/Town residents.
- Parties will provide minimum twelve months' notice of intent to implement a pay-as-you-throw residential waste collection system that has the potential to financially or operationally impact another party.
- County will endeavor to maximize schedule of operation and services available (subject to material markets and budgetary considerations) at Convenience Centers, consistent with current District/Neighborhood concept or other convenience center concepts as directed by the Board of Commissioners. Current District Center (Walnut Grove Church Road and Eubanks Road) services include:
  - residential municipal waste
  - household hazardous waste
  - cardboard
  - waste oil, filters and anti-freeze
  - yard waste
  - scrap tires
  - clean wood waste
  - scrap metal and white goods
  - cooking oil and residential food waste
  - mixed recyclables (bottles, cans, mixed paper)
  - rigid plastics
  - textiles/shoes
  - salvage shed

- electronics
- batteries (wet & dry cell)
- plastic film

### **Storm Debris Management**

- County to provide landfill for construction debris created from severe storms
- County to provide debris management sites for delivery of severe storm event vegetative debris
- Emergency storm debris collection and monitoring are the responsibility of each jurisdiction

### **Collection, Processing, Transfer and Materials Marketing of Recyclable Materials**

**FINANCING MECHANISM PLACEHOLDER (fees/taxes/billing, rate setting/approval)**

**If county-wide District Tax it is assumed that authorization for County imposition of this tax within the Towns would be authorized through this agreement.**

**Include special provision for part of CH located within Durham County where OC has no authority to tax or assess fee.**

Recycling programs and services that are provided at the time of implementation of the Interlocal Agreement are anticipated to be continued for the foreseeable future. Periodic expansions, modifications, improvements or adjustments to programs/services may be made by the County (subject to material markets and budgetary considerations). County will coordinate/collaborate with Towns regarding changes to programs/services operated within the Towns through an advisory board/committee established for this purpose, or other means as agreed.

It is the County's objective to offer equivalent services/programs within the Towns, subject to special negotiated services that may require service fees or other specific compensation. The portion of Chapel Hill located within Durham County should receive those services which other parts of the Town of Chapel Hill receive .

County to ensure that recycling programs/services provided by the County are of high quality and reliable with regard to customer service, adherence to route schedules, prevention of overflow of drop-off site receptacles, resolution of complaints, safety, making progress toward waste reduction objectives, etc. County will coordinate urban curbside recycling collection routing with municipal waste collection routing (as requested) to the extent possible, consistent with collection efficiency and available resources (i.e. roll-carts, compacting collection vehicles, etc.) County will endeavor to maintain maximum efficiency in recycling and waste reduction programs, consistent with generally accepted industry best management practices.

Current 24-Hour Recycling Drop-off Centers are intended to remain in service, subject to County budgetary considerations, site availability, space limitations, material market availability and Town recyclable material drop-off requirements. The five current drop-off sites include: Cedar Falls Park, Hampton Point, Carrboro Plaza, University Mall and Meadowmont. No reductions or additions of drop-off sites are contemplated at this time.

Current recycling services provided to the towns (incorporated municipalities) by the County include:

Weekly residential curbside collection (single stream)

Multi-family collection (single stream)

Food Waste collection

Bar/Restaurant and other small commercial location collection (single stream)

Downtown Cardboard Collection – Chapel Hill only – fee based

Pedestrian Bins ( locations) – Chapel Hill only – fee based

Park&RideLot Collection ( currently 3 locations each in Chapel Hill and Carrboro)

Municipal Park Collection

Government building collection for all local governments, OWASA and public schools

Public Housing - (multi-family style service or single family, as appropriate to housing type)

Public Schools collection -- fee based, contractual service

Holiday Service – County will publish holiday schedules annually for curbside collection. There will be no service on New Year’s Day, Thanksgiving Day and Christmas Day. Other holiday service will be scheduled according to specific day of week of observed holiday.

### **Customer Service, Education and Outreach**

- County responsible for preparation, distribution, expense and coordination for education and outreach services related to waste management, recycling and waste reduction services/programs under its administration, including advertising of holiday schedules. A multi-media approach will be utilized.

### **Solid Waste Management Planning, Data Management and Reporting**

- County, in cooperation with the Towns of Carrboro, Chapel Hill and Hillsborough, is responsible for development and timely submission of required annual reporting and solid waste management planning to NC DENR.
- Towns and County will cooperate with requests for information/data in a timely fashion.
- Consideration will be given by County to investigation of increased diversion of organic wastes, especially commercially generated food wastes, and the expansion of non-residential recycling programs/services.
- County, in cooperation in the Towns, will develop recycling performance and tracking measures for various programs of interest
  - Consistent with the reasonably available or obtainable data given the integrated nature of most recycling programs
  - To be provided upon request or otherwise reasonably accessible

### **Advisory Board or Citizens Committee**

- Representing each Town, County and potentially the University
- State composition, terms, rules of procedure and membership
- State mission/charge
  - Advise the County’s governing board on matters related to solid waste and recycling services, programs and policies of the waste management system governed by this Interlocal Agreement.
    - To recommend programs, policies, expansions amendments and reductions of services and other matters related to the operation of the system
    - To provide advice to the County Manager and Board of Commissioners with regard to development of the proposed annual solid waste budget
    - To respond to inquiries or requests for opinion from the County’s governing body, or such other matters as any Town governing Board or the County Manager may request
    - To initiate research, analysis or review on existing services, programs or policies
    - To provide a public forum for the discussion of issues related to system programs/policies

### **Code Enforcement/Regulatory Compliance**

- Towns will allow enforcement of County regulated recyclable material ordinance within Town municipal limits
- Towns will monitor waste collected by Town staff for banned materials in order to prevent their delivery for disposal
- County will provide solid waste plan advice, review and approvals in concert with development applications to various jurisdictions.

### **Term of Agreement**

Interlocal Agreement will become effective upon execution by each Town and County. Parties to the agreement may withdraw with 12 month notice and payment of its per-capita share of any outstanding debt related to the services and programs listed above.

Letter of Intent between Orange County and the Town of \_\_\_\_\_,  
approved this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Orange County is very interested in continuing our long and successful partnership with the Town with regard to recycling and waste reduction. Our state-leading programs are the model for success in reducing local government waste disposal and our longstanding local recycling partnership is a model of intergovernmental cooperation and effectiveness.

The Town wishes to continue participation in the recycling program. The most timely and least complicated manner in which to proceed would be for the Town to authorize the County to charge and collect a fee for urban curbside recycling within their town limits. The County would provide turnkey urban curbside recycling services including new roll carts for all Town residents. The Town Attorney has agreed that municipalities have the authority charge for the urban curbside recycling services and authorize the County to provide the services.

Orange County Intends to:

- Immediately proceed with an Requests for Proposals (RFP) for Collection Services and Roll Cart acquisition (carts may be available by piggybacking)
- Immediately assist the Towns with applications for DENR Roll Carts Grants
- Draft an interim agreement for the Purchase of Roll Carts using grant funds with each Town whereby
  - The County will pay the Town an amount equal to the invoice received by the Town for the roll carts purchased by the County for the Town solely for use in the Urban Curbside Recycling Program, and
  - Expect to receive the funds resulting from a grant awarded to the Town for the purpose of implementation of curbside recyclable collection to offset the County expenditure on roll carts
- Negotiate in good faith with the Towns to finalize a new comprehensive Solid Waste Interlocal Agreement as soon as possible but no later than June 30, 2014
- Implement the conversion to roll carts for the urban curbside recycling programs as soon as contracts have been approved or purchase authority provided, but no later than July 1, 2014

The Town Intends to:

- **Immediately apply for DENR Roll Carts Grants with the County's Assistance as needed**
- **Negotiate in good faith with the County to execute an interim agreement for the Purchase of Roll Carts for each Town whereby**
  - **The Town will notify the County of its receipt of an invoice for roll carts that were bid and ordered by the County for use in the Town's curbside recycling program**
  - **Receive payment from the County for the invoiced amount and then pay the invoice, submitting proof of payment to the County**
  - **Remit any funds received by the Town as a result of a roll cart grant award to the County within 30 days of receipt of the grant funds.**
- **Negotiate in good faith with the County to finalize a new comprehensive Solid Waste Interlocal Agreement as soon as possible but no later than June 30, 2014**
- **Assist the County with the implementation of a conversion to roll carts for the urban curbside recycling programs as soon as contracts have been approved but no later than July 1, 2014 not sure the meaning here**
- **Include in the Town's 2014/2015 Budget Ordinance a section authorizing the County to charge and collect a fee for urban curbside and multi-family recycling within their town limits and provide urban curbside and multi-family recycling services including new roll carts for all Town residents**

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**County Manager**

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**Town Manager**

**Memorandum**

To: Michael Talbert, Interim County Manager

From: Gayle Wilson, Solid Waste Director

Subject: Follow-up to Key Questions Raised with Regard to Urban Curbside & Multi-Family Services as Provided by Orange County Community Recycling Program

Date: November 14, 2013

During the November 1 Managers meeting and the November 6 Town of Chapel Hill work session several issues were raised relative to the proposals received by the towns and county provided services. This memorandum will attempt to address the key issues that were identified from the meetings. There may be other issues or questions as discussions continue.

County staff will defer to the Town of Chapel Hill for any substantive analysis or assessment of the proposals the Towns received in response to their RFP issued July 2013 and will offer only information on county services and general observations of issues raised regarding the services under consideration. In the end, that which the Towns consider best for them is what matters most.

**Key Issues Raised at Meetings****1) Towns Interest in a 5-year price/fee guarantee from the County**

The County was not asked to submit a bid in response to the Town's Request for Proposals and has not invested the time to perform the necessary comprehensive financial analysis to come to reliable long-term program cost conclusions consistent with the Towns' RFP criteria. Given the current program/funding uncertainties and absent recent reliable County initiated service RFP's and cart bid proposals, it would be a difficult task to perform with an acceptable margin of error. It is likely that the private company proposers will seek to include fuel surcharges or other CPI based cost increases in final contract negotiations, so even these proposals may not represent firm 5-year price commitments.

If such a long term commitment is required prior to obtaining binding current cart and service costs staff will be obligated to make conservative estimates and possibly include a fuel surcharge clause. For example, Multi-family fee of \$19/year/unit has been in place for six years with no evidence at the present time that the fee would need to be increased anytime soon. The program is stable and not subject to key and controlling unknown factors of cart and service contract costs. However, if required to make a firm 5-year commitment, staff would recommend a fee of \$20/year/unit to cover expense contingencies, residents might end up paying more than necessary. With the lack of a firm cost commitment for carts and collection service, it would be necessary to incorporate even more conservative contingencies in the 5-year fee guarantee for Urban Curbside services. Please advise if this 5-year fee commitment is required and county staff will proceed to conduct the necessary long-term financial analysis. Note that an Interlocal Agreement could also be used to address limitations on fee increases.

## 2) Interest in bi-weekly curbside collection

The County is willing to provide the frequency of service desired by the three Towns, as long as the three Towns can come to an agreement so that services can be uniform among all three. The County is willing to issue Request for Proposals for Urban Curbside service that allows requesting price quotes for both weekly and bi-weekly, or if the Towns already know that they prefer bi-weekly, then the County would simply request bi-weekly proposals and begin developing education and outreach materials and revising collection schedules accordingly. Since the County has not bid for this service it would be difficult to provide a firm fee quotation to the Towns without a formal RFP; especially if the fee is to be a firm five-year quotation.

Based on staff's best available information and assessment, it is believed that bi-weekly curbside service could be provided in FY 2014/15 for an estimated fee of \$50 /hh/year versus an estimated fee for weekly service of about \$60 /hh/year. Again, without a firm collection service bid, County staff would be highly reluctant to guarantee this fee rate for a 5-year period. We believe that the implementation timeline for either service could be the same, six months from notice to the County of the decision to proceed with the County partnership and a supporting written assurance/commitment. We also believe that for the first few months that conversion to bi-weekly will require more support and education than weekly, i.e. picking up missed collections, of which there will likely be more with bi-weekly. We have added more education and outreach funds and assumed more missed collection call pickups, adding about \$1.00 to the annual fee.

While it is clear that bi-weekly contract collection costs will be less expensive than weekly contract collection costs, County staff would still suggest that the Towns consider the advantages and disadvantages of conversion to bi-weekly service prior to deciding. County staff is not trying to influence the Towns toward either option and is fully capable of providing either service. The Towns should be aware of the subtle operational and implementation differences or implications regarding collection frequency. Issues that could be considered are:

- Recycling markets continue to accept more varieties of material at the curb. Future items could include bulky plastics and small scrap metal. Homes in the Urban Program already average over 300 lbs. annually and it could be possible that homes could average over 450 lbs. annually with carts. It is possible that added materials and increased volumes could result in overflowing carts and lack sufficient volume for potential future material additions
- Carts allow more volume for bulky items like cardboard that previously was not containerized. Some families may not have capacity for two weeks' worth of cardboard
- Implementing recycling carts at a bi-weekly frequency after twenty-four years of weekly would increase the degree and intensity of new information necessary as part of education and outreach efforts related to carts, would be inconsistent with current weekly recycling collection schedules and would also not correspond to existing weekly garbage collection cart services
- It is possible that should the original decision on frequency be determined unacceptable to the Towns after a period of time, a collection frequency change could be made in the future, given comprehensive education and outreach efforts, revision to the collection service contract and a comprehensive rerouting/change of collection schedules
- Most Urban Curbside route set-out rates are between 70-80%, meaning more than 70% place out their bins on any given day; therefore only 20-30% do not set bins out every week and some simply don't recycle; will bi-weekly be sufficient for those high volume/frequency recyclers?

- Those who forget to set out on a bi-weekly schedule would result in a resident going a month between collections and/or requesting a special collection
- Convenience has always been key to recycling program success
- Unlike using bins, it is not easy for a resident to haul a roll cart to a recycling drop-off center and there will likely be more missed service complaints with bi-weekly
- Should the Towns move to PAYT in the future, additional cart capacity may be needed
- Weekly garbage collection and bi-weekly recycling collection may dis-incentivize the casual recycler.

### 3) Which recycling collection option is of lowest cost to the Towns

As stated above, County staff has not conducted an independent analysis of the Town proposals, as it will be up to the Towns to make their own determinations with regard to cost and value. If the single deciding factor is lowest cost, it is unlikely that the County program will be the absolute cheapest absent other value added elements. The primary County objectives are to aggressively pursue community waste reduction goals, provide the highest quality customer service, continue to strive to achieve operational efficiencies using and improving industry best management practices and to minimize fees.

County staff suggests that the Towns consider all costs when comparing vendor proposals and county programs. For the most part, the proposals received by the Towns include the actual cost of material collection and can also include roll cart acquisition. Otherwise, it appears that any other ongoing support components of a successful collection service would be borne by each Town:

- Preparation of roll cart and collection service bid/RFP materials and administering the acquisition process, including obtaining board approvals
- Implementation costs and staff time such as recording cart assignments through establishment of a new Radio Frequency Identification (RFID) tagging and tracking system, establishing a database, troubleshooting implementation problems and a strong education and outreach effort to include advertising, brochures, community forum, mailings to all residents, etc.
- Contract administration including reviewing and paying invoices and coordination among the three Towns
- Ongoing education and outreach efforts and customer service availability to receive calls for missed collection and general questions about service, to communicate problems to the proper supervisor and to follow up and verify resolution
- Responding to complaints/complaint investigation
- Purchase of a handheld RFID scanner
- Maintaining cart inventory and assignments, including physical cart storage
- Overseeing and coordination of cart performance and warranty provisions
- Cart distribution, repair and tracking
- Cleaning up material spills, collecting missed homes, etc. if vendor unavailable or non-responsive
- Maintaining and preparing reports and data base management
- Overseeing ongoing route expansions, new residents and other adjustments
- Coordination with other existing county-wide programs such as drop-off centers
- Managing resident confusion and uncertainty with regard to both Towns and County managing separate recycling programs

Also included allocated to each county solid waste division and shared among all programs and services (recycling, sanitation and landfill) are the enterprise funds overhead/indirect costs.

These costs include:

- Charges by the General Fund that is essentially what the enterprise fund pays for Orange County for County Manager / Attorney / Board / Finance / Human Resources / Purchasing / Clerk / IT support and represents about 20% of the entire Environment Support Division budget
- departmental insurance
- utilities
- Director and administrative/customer service staff
- education and outreach staff and expenses that includes staffing and provision of recycling services at numerous public events/festivals throughout the year in all jurisdictions
- environmental enforcement staff
- janitorial services
- administrative building debt service
- emergency storm debris planning
- Towns/County development review and permitting services
- and a myriad of other expenses that are shared among each Division and program

This discussion of costs has focused primarily on curbside recycling, but a very similar situation with regard to Town responsibilities exists relative to the Multi-family program, should the Towns also decide to assume this program responsibility to contract out for this service. From a brief review of the bids it is believed that the County cost estimate for Multi-family service is less than any of the vendor proposals, even when including full administrative and operational support expenses. It is also believed that the County cost estimate for curbside recycling is very competitive with private proposals received.

County program estimates include all of the associated costs of managing the programs and include no hidden expenses to the Towns. It is the same true turn-key recycling service that the Solid Waste Department has provided during twenty-four years of Curbside and almost twenty years of Multi-family service. If one looks objectively at the Urban Curbside and Multi-family programs together and factors in all costs, County staff believes it will be clear as to which service option will provide the most value to the Towns. Alternatively, are the Towns prepared to assume administrative responsibility for the programs beginning July 1, 2014?

- 4) If not the lowest cost when compared to the proposals received, what are the reasons that the Towns should conclude that the County program is preferable; what makes the County Curbside and Multi-family programs better

In addition to the comprehensive and inclusive cost components presented in Item 3 above that would have to be handled by each town there are other benefits to continued partnering with Orange County and participation in the Orange Community Recycling Program. These can be viewed from the perspective of:

- Value – The value of the Orange County managed recycling services is the benefit of centralized, dedicated and uniform administration of programs and services that are integrated so as to mutually support and enrich all of the broad range of waste reduction services provided to county residents, businesses and institutions. There is cohesion and integration of planning, communication and execution, and an experience and commitment that are unequaled. This benefit includes a consolidated and reinforcing

education and outreach program, one-stop recycling and waste reduction shopping and the statewide recognition of our local programs and their unique level of achievement. Orange County residents hear the same recycling message and are able to recycle the same material whether they are at home, school, or work. Town residents also appreciate their local program's achievements and the ease in which they can obtain information about or otherwise communicate with recycling staff about their service. This is a major contributor to the establishment and perpetuation of our local culture of waste reduction and resource preservation.

Further, comprehensive data collection and management (soon to be enhanced by RFID) provides a single source of program information and reporting and a web site that includes the entire gamut of local programs. Through the past 24+ years, all residents, both rural and urban, have come to expect and rely on the County-wide integrated nature of the program. The long partnership between the Towns and the County illustrates to our own residents, as well as the state at large, that our local governments place a priority on environmental responsibility and performance. This unified approach will be of additional importance as we move more seriously toward discussions of long-term regional solutions to waste disposal with our neighboring jurisdictions.

Also relating to value is the stability provided by the uniformity and integration of local recycling services. Only the most recent newcomer to our county would have any doubt whom to contact with any question related to recycling services. Any and all questions regarding residential hazardous waste, recyclability of various materials, advice on material preparations for recycling, collection or facility operating schedules, questions such as what the various materials are recycled into, regulations/rules, etc. are available from one location, one phone number, one web site and even one email address. Even suggestions for program improvements, expansions, or notification of problems can be easily conveyed through a single point of contact. County collection equipment and staff are located on Eubanks Road and available across programs as necessary to respond to a critical service need, offering a valuable program redundancy even to contracted services. As an example, the County works closely with the Town of Chapel Hill to provide extra collections in the downtown business district during Halloween and noteworthy athletic events at no extra cost.

An indication as to the value that the county places on recycling services county-wide is the \$1.7 million the county transferred from enterprise fund reserves to continue funding of the Urban and Rural programs during the funding crisis of the last budget. The Towns are receiving a package of high performing services/programs, excellent quality customer service, cost effective operations, cooperative planning and statewide achievement. This is value that's difficult to duplicate. It should also be noted that a Town of Chapel Hill's solid waste consultant indicated in a previous report that the County programs were a very good value.

- Performance – The record of program performance over the past twenty-four plus years is difficult to question. The array of local programs has steadily grown over this period to reach the pinnacle of waste reduction statewide, and even regionally. At the time the 61% waste reduction goal was established by local Town and County officials, many believed it was unachievable. Now we currently sit at 59% and in the very near future envision celebrating reaching that goal and together, setting another, even more aggressive and challenging goal.

This achievement is based on a variety of factors, but most significantly on the strong support by all county residents and elected officials and the foresight of the elected officials to organizationally centralize operations and planning into one entity. This entity proved its success under the leadership of Chapel Hill for years and more recently under County leadership. Our programmatic successes have been county-wide successes, not individual jurisdictional successes.

Performance also means program predictability, responsiveness, stability and financial accountability. Disengaging individual services from the unified program will likely weaken the operational and planning benefits that now exist.

5) Concern about the County's request for an expedited decision by the Towns and lack of all questions being addressed prior to the Towns making a commitment through a letter of intent

There are a number of factors that have led County recycling staff to suggest an expedited implementation improved Urban Curbside recycling services. Among these factors are:

- It has been understood for some time that there was a desire by all three Towns to convert to roll carts for recycling collection at the earliest opportunity and that it was a high priority. County staff are prepared to move quickly toward bidding roll carts and Urban Collection service (RFP and Bid documents nearly finalized) when authorized by the BOCC; the County needs six (6) months to plan and implement this service
- It is very likely that the state grants for roll carts will be cancelled after this fiscal year. Grant funds are diminishing and NC DENR will start focusing limited funds on other areas, since most large municipalities have already transitioned to carts. Any grants received will require implementation within one year
- Current Urban Curbside and Multi-family services are funded until July 1, 2014, so it is assumed that the Town's planning was already moving on an expedited schedule, whether the final decision is that the Towns will assume responsibility for these services or will notify the County of interest in continuing with County provided services
- The County currently has a considerable potential workload with regard to solid waste and recycling activities whose timelines, schedules, processes and operations must be orchestrated consistent with the availability of staff resources and BOCC priorities
- Long experience has informed staff that during the summer break is not the best time to implement broad impact type services where communication with the residents is paramount. Education & outreach activities related to roll cart implementation, especially if the Towns move to bi-weekly service, would be less effective given the absence of many residents during the summer period
- The County contract with the current Urban Curbside recycling service provider expired June 2013 and the program continues on a month to month basis. It is not desirable to continue indefinitely with this month to month arrangement

County staff would be interested in knowing the Towns' preferred Urban Curbside implementation schedule. For purpose of balancing County Solid Waste Department various workload, deadlines and projects, coupled with the County's perception of long-held strong desire by Towns to expeditiously move to roll carts, County staff considered prioritization of the Urban Curbside implementation a reasonable suggestion. Staff will accommodate the Towns desires to the extent possible, and ultimately the BOCC, in consultation with the Towns, will make decisions and provide staff guidance on matters of implementation timelines. Staff's primary interest is, as a practical matter, being able to give full attention to implementation process to assure an efficient, minimally disruptive and resident approving transition to roll carts.

Summary of Solid Waste and Recycling Services

Material	Jurisdiction	Residential		Multi-Family/Apartments		Commercial		Government Buildings & Parks**		Public Schools K-12	
		Service Provider	Funding	Service Provider	Funding	Service Provider	Funding	Service Provider	Funding	Service Provider	Funding
Recycling	Carrboro	OC by Contract	U 3-R Fee	OC Staff & Equip	MF 3-R Fee	OC Staff & Equip (or Private Hauler*)	B 3-R Fee and Private Fee (if private service)	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	Chapel Hill	OC by Contract	U 3-R Fee	OC Staff & Equip	MF 3-R Fee	OC Staff & Equip (or Private Hauler*)	B 3-R Fee and Private Fee (if private service)	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	Hillsborough	OC by Contract	U 3-R Fee	OC Staff & Equip	MF 3-R Fee	OC Staff & Equip (or Private Hauler*)	B 3-R Fee and Private Fee (if private service)	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	OC Curbside Recycling Areas	OC Staff & Equip	R 3-R Fee	OC Staff & Equip	MF 3-R Fee	OC Staff & Equip (or Private Hauler*)	B 3-R Fee and Private Fee (if private service)	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	OC Non-Curbside Recycling Areas	Self-Haul	B 3-R Fee	N/A	N/A	Private or Self Haul to County Drop-Off sites	B 3-R Fee and Private Fee (if private service)	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
Cardboard	Carrboro	OC by Contract	U 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	Chapel Hill	OC by Contract	U 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	Hillsborough	OC by Contract	U 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	OC Recycling Curbside Areas	OC Staff & Equip	R 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
	OC Non-Recycling Curbside Areas	Self-Haul to SWCC/Drop-Off sites	B 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	Private or Self Haul to County Drop-Off sites	Private Fee (if private service) & B 3-R Fee	OC Staff & Equip	B 3-R Fee	OC Staff & Equip	Fee for Service Contract between Schools & OC
Garbage	Carrboro	Town of Carrboro	Carrboro General Fund	Town of Carrboro***	Carrboro General Fund	Town of Carrboro (50% of locations)	Fee for Service to Town & Carrboro GF or Private Fee (if private service)	Town of Carrboro	Carrboro GF	Town of Carrboro	Fee for Service
	Chapel Hill	Town of Chapel Hill	Chapel Hill GF	Town of Chapel Hill (most locations) ***	Fee for Service to Town & Chapel Hill GF or Private Fee (if private service)	Town of Chapel Hill or Private Haulers	Fee for Service to Town & Chapel Hill GF or Private Fee (if private service)	Town of Chapel Hill	Chapel Hill GF	Town of Chapel Hill	Fee for Service
	Hillsborough	Town of Hillsborough	Hillsborough GF	Franchise Hauler ***	Fee for Service to Private Hauler	Franchise Hauler	Fee for Service to Private Hauler	Franchise Hauler	Hillsborough GF	OC Sanitation	Fee for Service
	OC Recycling Curbside Areas	Self-Haul to SWCC or Private Hauler	SWCC Fee/ OC GF; Private Fee (if private service)	Private ***	Fee for Service to Private Hauler	Private	Fee for Service to Private Hauler	OC Sanitation or Self-Haul	OC GF or other	OC Sanitation	Fee for Service
	OC Non-Recycling Curbside Areas	Self-Haul to SWCC or Private Hauler	SWCC Fee/ OC GF; Private Fee (if private service)	Private ***	Fee for Service to Private Hauler	Private	Fee for Service to Private Hauler	OC Sanitation or Self-Haul	OC GF or other	OC Sanitation	Fee for Service
Universal Recycling Services	All	Services include: recycling drop-off sites, hazardous waste collection, electronics recycling, enforcement, and public education and outreach. Services are provided County-wide to businesses, residents and others throughout Orange County. Funded by the B 3-R Fee and supplemented by SWCC Fee and OC General Fund.									

**General Notes**  
 All industrial and construction & demo waste is privately hauled  
 Commercial entities have the opportunity for food waste collection, if high food waste generators  
 Does not include University waste or recycling

**Footnotes**  
 \* Some private haulers provide special recycling services within the municipalities. Most ABC on-premises permit holders are collected with Orange County Staff and Equip.  
 \*\* Government buildings and parks includes pedestrian bins and Park & Ride lots. Pedestrian bins are Fee for Service; Park & Ride lots are funded from B 3-R Fee.  
 \*\*\* Apartment residents may use SWCCs for their household waste. Apartment management must use private services for waste disposal.

KEY TO FEES
GF General Fund
U Urban Curbside Recycling Fee currently \$52/year/unit
R Rural Curbside Recycling Fee currently \$38/year/unit
MF Multi-Family recycling fee, currently \$19/year/unit
B Basic recycling fee for all improved properties, currently \$37/year/unit
OC Orange County
SWCC Fee Solid Waste Convenience Center Fee for all residential units currently \$20/year/unincorporated area unit; \$10/year incorporated areas unit and \$2/apartment unit

**ORANGE COUNTY  
ASSEMBLY OF GOVERNMENTS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** November 21, 2013

**Action Agenda  
Item No.   3**

**SUBJECT:** Chapel Hill ETJ Expansion Process

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**DEPARTMENT:** Planning

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

No

**ATTACHMENT(S):**

A) Proposed Extraterritorial Jurisdiction  
Boundary Map

**INFORMATION CONTACT:**

J.B. Culpepper, Chapel Hill Planning  
Department, 919-968-2728  
Craig Benedict, Orange County Planning  
Department, 919-245-2592

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**PURPOSE:** To discuss the extraterritorial jurisdiction (ETJ) expansion process near the Historic Rogers Road Community.

**BACKGROUND:** Please see the following link regarding action by the Orange County Board of Commissioners on September 5, 2013: <http://orangecountync.gov/occlerks/130905.pdf>

Orange County has sent a letter to Chapel Hill acknowledging the Town's interest to expand its ETJ. Orange County will await actions by the Chapel Hill Town Council, with a general understanding that action will be necessary early next year.

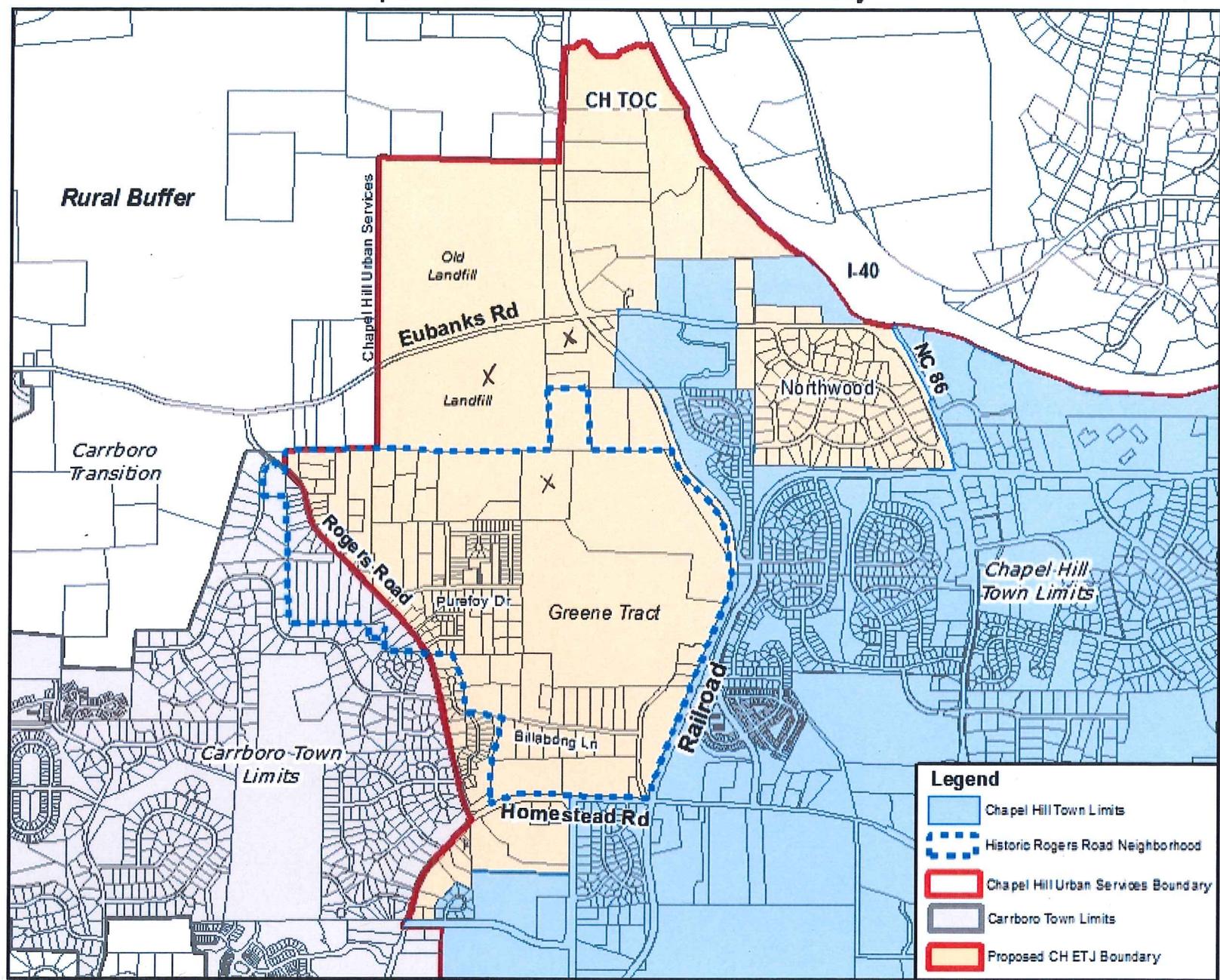
Below is a summary of the Chapel Hill and Orange County timeline:

- Chapel Hill has conducted a Public Hearing on October 21, 2013- a mailing has been sent to all property owners as well as legal ads were published on October 6 & 13, 2013.
- Chapel Hill staff anticipates returning to the Town Council on January 13, 2014 for action and then the request will be sent to the County for approval. Orange County will put a placeholder on the Board of Commissioners agenda calendar after that date.
- Chapel Hill is discussing scheduling a Public Hearing on the rezoning on the January 13, 2014 date as well, but the specifics are not yet available. Chapel Hill would need to pursue review by the Town Planning Board for its recommendation in December and get an additional mailing and legal notices published.

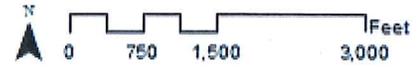
**FINANCIAL IMPACT:** None at this time. The ETJ could provide the opportunity for Chapel Hill to fund improvements to Rogers Road, but does not increase any revenues for that purpose.

**RECOMMENDATION(S):** The Managers recommend that the Boards discuss this topic and provide any comments and/or direction to staff as necessary.

### Proposed Extraterritorial Jurisdiction Boundary



GIS Map prepared by  
Chapel Hill Planning Dept.  
July, 2013



**ORANGE COUNTY  
ASSEMBLY OF GOVERNMENTS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** November 21, 2013

**Action Agenda  
Item No. 4**

**SUBJECT:** Report from the Historic Rogers Road Neighborhood Task Force

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**DEPARTMENT:** Solid Waste Management

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

No

**ATTACHMENT(S):**

- A) Rogers Road Small Area Plan
- B) Historic Rogers Road Neighborhood Task Force Report Dated 9/17/13
- C) Town of Carrboro Resolution Dated June 18, 2013

**INFORMATION CONTACT:**

Michael Talbert, Interim County Manager,  
245-2308

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**PURPOSE:** To discuss the recommendations from the Historic Rogers Road Neighborhood Task Force, updates from Local Governments and potential next steps to implement improvements in the Historic Rogers Road Neighborhood.

**BACKGROUND:** Beginning in 1972 the landfill was opened by the Town of Chapel Hill, and in 1999, Orange County assumed ownership and operation of the Eubanks Road Landfill. The Historic Rogers Road Community has lived with the Orange County Landfill for 40 years. The Community is geographically split by the Orange County and Carrboro. Orange County as the current owner/operator of the Landfill, is taking the lead to make remediation improvement to the Historic Rogers Road Community.

**Timeline:**

On **May 17, 2011** the Board of Commissioners received a plan from Rogers Eubanks Neighborhood Association (RENA) recommending actions to mitigate the long and short term impacts of Orange County's Landfill and Solid Waste operations on the health, safety and welfare of the Historic Rogers Road – Eubanks Road Community.

On **January 26, 2012** the Board of Commissioners and the Town Boards discussed the extension of sewer service and a community center for the Historic Rogers Road Community. County and Town Attorneys have concluded that utilization of Solid Waste reserves to extend sewer service to the Historic Rogers Road Community is not consistent with North Carolina General Statutes and would subject the local governments to legal challenges. Therefore, funding for either the extension of sewer services and/or a community center would have to come from the County's and Towns other general revenue sources.

On **February 21, 2012** the Orange County Board of Commissioners authorized the Creation of a new Historic Rogers Road Neighborhood Task Force to address sewer service and a community center and approved the Charge The composition of the Task Force was to include two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA).

### **Charge of the Original Historic Rogers Road Neighborhood Task Force**

The Charge for the Historic Rogers Road Neighborhood Task Force is to investigate and make recommendations to the Board of County Commissioners, the Chapel Hill Town Council and the Carrboro Board of Aldermen for neighborhood improvements including funding sources and the financial impact to the County & Towns, for the following:

1. Sewer Service to the Historic Rogers Road Neighborhood as defined by the previously approved public water connections in the area.
2. A Neighborhood Community Center.

The Task force is also directed to:

- a. Submit an Interim Report back to the County and the Towns by the end of August, 2012 and;
- b. Submit a Final Report to the Assembly of Governments on December 6, 2012.

On **December 6, 2012** the Assembly of Governments received an interim report from the Historic Rogers Road Neighborhood Task Force and held a lengthy discussion on the accomplishments of the Task Force. One of the recommendations from the Task Force was that the Task Force continue to meet for an additional 6 months to address the Charge with the original composition of the Task Force.

On **February 5, 2013** the County Board of Commissioners authorized the continuation of a reappointed Historic Rogers Road Neighborhood Task Force and approved the Charge of the Task Force. The composition of the Task Force includes two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA).

### **Charge of the Reappointed Historic Rogers Road Neighborhood Task Force**

1. Request that the towns confirm the continuation of the Historic Rogers Road Neighborhood Task Force and appoint members to the Task force;
2. Confirm the appointment of Commissioners Rich and Price as the County's members on the Historic Rogers Road Neighborhood Task Force;

3. Request that the Rogers Eubanks Neighborhood Association confirm the continuation of the Historic Rogers Road Neighborhood Task Force and appoint two members to the Task Force;
4. Confirm the charge and a timeline for the Task force as specified by the motion approved at the January 24 meeting:
  - To continue the Task Force for six (6) months;
  - To have the Task Force consider the final costs, provision and installation of water and sewer utility extensions preferably at no cost for members of the Historic Rogers Road community;
  - Consider options to address gentrification;
  - Consider Chapel Hill's most recent Small Area Plan;
  - Consider funding options, including the Greene Tract.
5. Specify that the Task Force provide a report to the Board of County Commissioners no later than the Board's September 17th meeting.

## **RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS**

### **September 17, 2013**

1. That that the Cost associated with the Community Center and Sewer Improvements will be shared 14% Carrboro, 43% Chapel Hill and 43% Orange County.
2. That the Sewer Concept Plan presented by Orange Water and Sewer Authority (OWASA) in 2012 to serve 86 parcels at an estimated cost of \$5.8 million should be funded by Carrboro, Chapel Hill, and Orange County in proportion to the recommended cost sharing. The first phase of the construction should include segments 5, 6, and 8 at an estimated cost of \$3.7 million, serving 67 parcels. Funding recommended to be included in the Fiscal 2014/2015 Budgets, with the remaining 19 parcels to be constructed in the second phase and included in the Fiscal 2015/2016 Budgets
3. That the Task Force prefers the original Sewer Concept Plan presented by OWASA in 2012 to serve 86 parcels at an estimated cost of \$5.8 million. First this concept will provide sewer improvements to the entire Historic Rogers Road Neighborhood; secondly, this proposal will enable all of the partners, Orange County, the Town of Chapel Hill, and the Town of Carrboro, to equally share the costs of the Community Center and Sewer Improvements in proportion to their responsibilities. If either the Orange County Board of Commissioners or the Chapel Hill Town Council do not favor the original Sewer Concept Plan presented by OWASA in 2012 or cannot agree on the concept of an Extra Territorial Jurisdiction (ETJ) for

the Historic Rogers Road Neighborhood, the Sewer Concept Plan presented by OWASA in 2012 including only segments 5, 6, and 8 to serve 67 parcels at an estimated cost of \$3.7 million should be funded.

4. That the County petition the Town of Chapel Hill to annex all County Owned Property in the Historic Rogers Road Neighborhood.
5. That the Task Force requests that the Managers explore the collaborative approach to the Historic Rogers Road Neighborhood as outlined in February 25, 2013 memo to Elected Officials and report back to the Task Force on August 21, 2013.
6. That the Managers meet and talk about the options related to connecting the residents of the Historic Rogers Road Neighborhood to sewer.
7. That funding is identified for the cost of connecting from the OWASA infrastructure to the home in addition to applying for grants for low-to-moderate income persons. It is a priority of the Task Force to identify funding not only for the installation of sewer infrastructure but also cost of connections to homeowners and the Task Force recommends that the County and Towns set up a fund specifically for people in the Historic Rogers Road Neighborhood and to fund the cost of the connections from the home to the main.

#### **Orange County Update:**

*On **April 9, 2013** the Board of County Commissioners was presented the schematic design of the Rogers Road Community Center and authorized the Manager to award the bid for construction in an amount not to exceed \$650,000. The Town of Chapel Hill expedited the site plan review, permitting and other associated processes for the project as well as waived all associated Town fees related to those processes, normally estimated to be \$25,000. Bids were received for the Community Center in September with all bids over budget and the bids were rejected. The project will be rebid as soon as plans have been revised and approved by the Town of Chapel Hill...*

#### **Town of Chapel Hill Update:**

*On October 21, 2013, the Chapel Hill Town Council voted to receive the Final Report of the Historic Rogers Road Neighborhood Task Force and acknowledge the work of the delegates to the Task Force. The Report provides recommendations for Orange County, Chapel Hill, and Carrboro regarding extension of sewer to the Rogers Road area. The Chapel Hill Town Council asked the Town Manager to begin to develop a rough plan and time line for how the governments might move forward with a plan for sewer for the Rogers Road area including recommendations for how to pay for sewer extension.*

## Town of Carrboro Updates:

On **September 18, 2012** the Town of Carrboro approved the Town's intention to contribute not more than \$900,000 for the Town's 14% portion of the \$650,000 Community Center and estimated \$5.8 million cost of the Sewer Project.

On **June 18, 2013** the Carrboro Board of Aldermen approved a Resolution (Attachment 2) to Provide Comment on Alternatives Discussed by the Historic Rogers Road Neighborhood Task Force. The Town has also appropriated \$450,000 (1/2 of the \$900,000 the Town has committed to Rogers Road) in the Fiscal 2013/2014, for both a New Community Center and Sewer Improvements.

### Summary:

There has been some progress to mitigate the long and short-term impacts of the Orange County Solid Waste Operations on the health, safety and welfare of the Historic Rogers Road-Eubanks Road Community.

- The Landfill was closed on June 30, 2013.
- A County Water Fund was established to assist pay residents tap fees and connection fees for OWASA water
- Illegal dump sites within  $\frac{3}{4}$  mile around the perimeter of the landfill have been cleaned up with the permission of the property owners.
- A Community Center is being redesign after initial bid received were over budget and rejected. The Community Center original drawings are being redrawn and the project will be rebid.

The recommendations from the Historic Rogers Road Neighborhood Task Force will have little chance of implementation if there is not a multijurisdictional comprehensive Implementation strategy. Task Force Recommendations provide an excellent starting point, but gentrification, Chapel Hill's Rogers Road Small Area Plan and the future of the Greene Tract were not addressed by the Task Force. Multiple strategies could be engaged to make a difference in the Historic Rogers Road Neighborhood. The Chapel Hill Rogers Road Small Area Plan Task Force Final Report included an implementation strategy but was never executed.

The United States Environmental Protection Agency (EPA) accepted an administrative complaint filed against Orange County Planning and Inspections Department (OCPID) received on April 18, 2011 and is conducting an investigation of the complaint.

### Possible Next Steps and **(Considerations)**:

1. **Provide directions to the County & Town Managers to implement the Recommendations of the Historic Rogers Road Neighborhood Task Force:**
  - (1) Costs Sharing for Rogers Road Improvements  
**(Multiple Jurisdictions, Extra Territorial Jurisdiction (ETJ) – Chapel Hill, Joint Planning)**
  - (2) & (3) Sewer for the Historic Rogers Road Neighborhood  
**(EPA Investigation, Include Water and a Larger Utility District)**
  - (4) That the County petition the Town of Chapel Hill to annex all County Owned Property in the Historic Rogers Road Neighborhood  
**(ETJ, Joint Planning, Future Development)**

- (5) & (6) That the Managers meet and talk about the options related to connecting the residents of the Historic Rogers Road Neighborhood to sewer and explore the collaborative approach to the development of Historic Rogers Road Neighborhood (Multiple Jurisdictions, Community Development Block Grants, Low-to-moderate income)
- (7) That funding is identified for the cost of connecting from the OWASA infrastructure to the home in addition to applying for grants for low-to-moderate income persons. It is a priority of the Task Force to identify funding not only for the installation of sewer infrastructure but also cost of connections to homeowners and the Task Force recommends that the County and Towns set up a fund specifically for people in the Historic Rogers Road Neighborhood and to fund the cost of the connections from the home to the main. (Costs Sharing for Multiple Jurisdictions, Extra Territorial Jurisdiction (ETJ) – Chapel Hill, Joint Planning)

**2. Provide directions to the County & Town Managers to create an implementation strategy that would address the Charge of the Task Force including a comprehensive development plan for the Historic Rogers Road Neighborhood:**

- Consideration of the final costs, provision and installation of water and sewer utility extensions preferably at no cost for members of the Historic Rogers Road community;
- Consideration of options to address gentrification;
- Consideration of Chapel Hill's most recent Small Area Plan;
- Consideration of funding options, including the Greene Tract.

**FINANCIAL IMPACT:** The financial impact of funding improvements in the Historic Rogers Road Community is uncertain until direction is provided by the Board of County Commissioners.

**RECOMMENDATION(S):** The County Manager recommends that the Boards discuss the recommendations from the Historic Rogers Road Neighborhood Task Force and provide direction to staff.

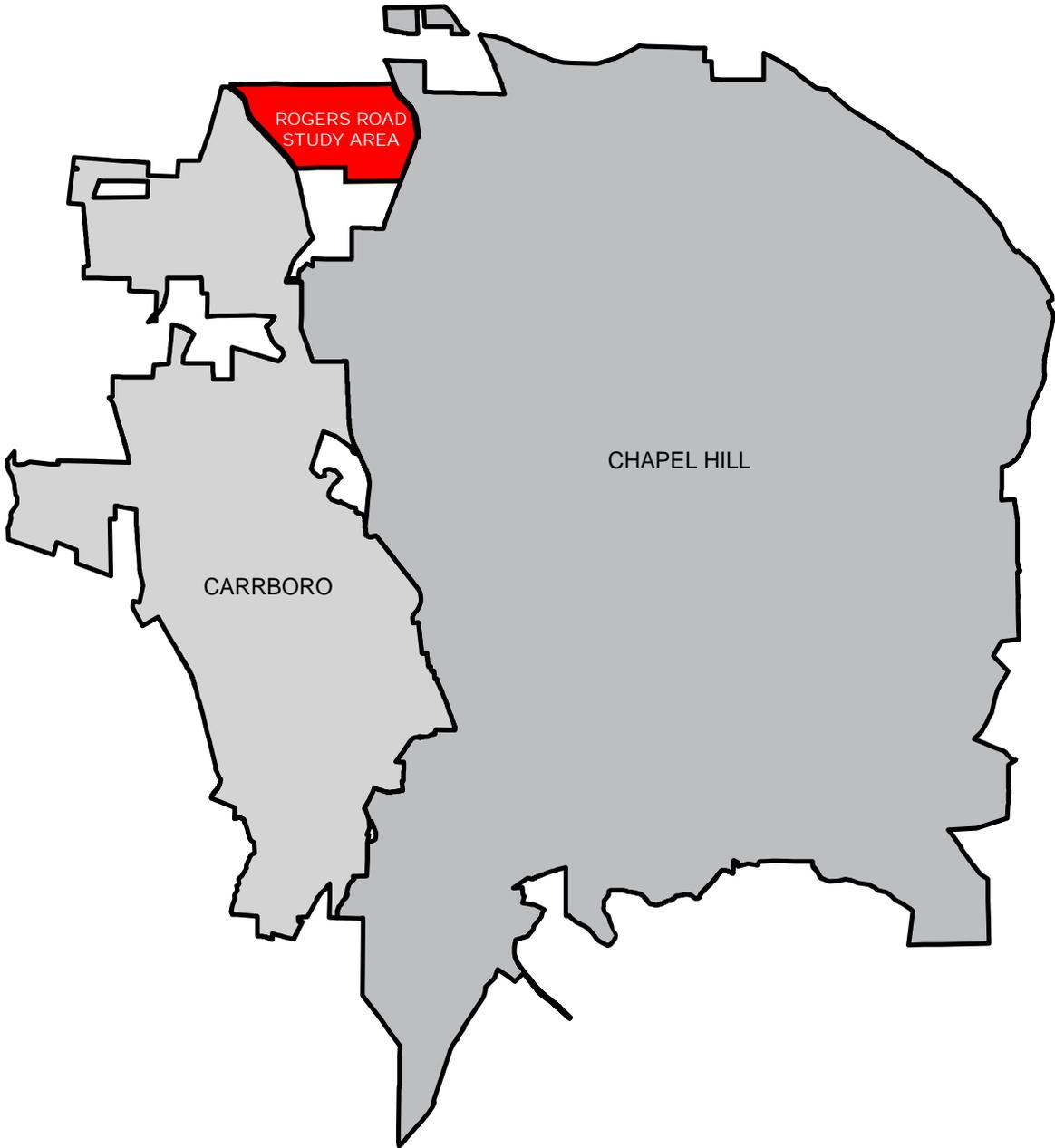
### Final Report



Prepared by the  
Rogers Road Task Force



# Task Force Members



- Delores Bailey**
- Joal Hall Broun**
- Robert Campbell**
- Moses Carey**
- Robert Dowling**
- Barbara Hopkins**
- Neloa Barbee Jones**
- Susan Levy**
- Council Member Mark Kleinschmidt**
- Bonnie Norwood**
- Council Member Bill Strom**
- James Stroud**
- Ruby Sinreich**
- Tom Tucker**
- Laura Wenzel**

	<b>Page</b>
<b>Introduction</b>	<b>4</b>
Background	
Timeline	
Location	
History	
<b>Development and Infrastructure Concepts</b>	<b>10</b>
Concepts for Sewer Extension	
Expanding Road Access	
The Greene Tract	
Land Use Exercise	
<b>Community Design Workshop</b>	<b>15</b>
<b>Task Force Recommendations</b>	<b>20</b>
<b>Implementation</b>	<b>22</b>
<b>Attachment 1</b>	<b>27-28</b>
<i>NC Water and Wastewater Funding Sources</i>	
<b>Appendix 1</b>	<b>Rogers Road Small Area Plan Task Force Interim Report - June 2007</b>
<b>Appendix 2</b>	<b>Recommendations for the Rogers Road Small Area Plan - A report by the Durham Area Designers</b>

# Introduction

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The Rogers Road Small Area Plan Report summarizes the activities and recommendations of the Chapel Hill Rogers Road Small Area Plan Task Force. The information included in this Report represents work undertaken by the Task Force to identify key issues and prepare a small area plan intended to address those issues. The Report draws from the interim report from June of 2007 (Appendix 1) and the Urban Design Workshop held in June 2008 (Appendix 2).

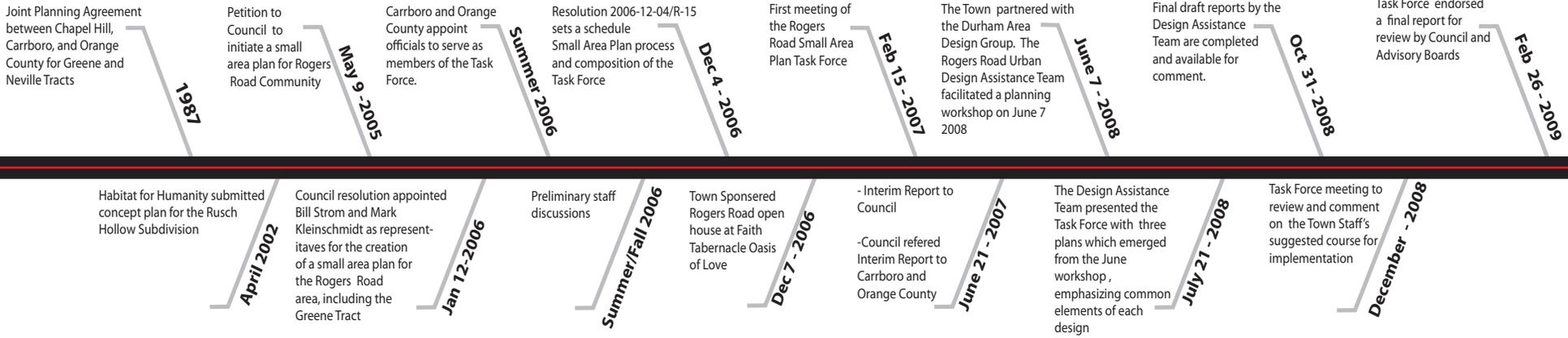
The Rogers Road Task Force was created by the Chapel Hill Town Council on December 4, 2006 and held its initial meeting in February of 2007. In establishing the Rogers Road Task Force, the Council identified the following topics to be addressed.

- **Desirable Land Uses and a Revision to the Land Use Plan**
- **Water and Sewer Extension Plan**
- **Roadway Network**
- **Transit Service Plan**
- **Zoning Ordinance and Map Amendment**

At the initial meetings of the Task Force, members reviewed background information about existing conditions and infrastructure within and adjacent to the study area. The Task Force met a total of six times between February 15, 2007 and the submission of an interim Report to the Town Council on June 21, 2007. Subsequent meetings of the Task Force included two consultant-led workshops with the Rogers Road Urban Design Assistance Team during the summer of 2008. The workshops produced a draft land use plan and recommendations for policies to support the proposed land uses. Final meetings of the Task Force focused on gathering feedback for the consultant's work and reviewing a range of implementation strategies.

This Report begins with a review of background information about the study area and relevant planning efforts. The following sections detail information presented to the Task Force about concepts for new development and infrastructure in the area. The last sections include the final recommendations of the Task Force and the suggested course for implementation of the Rogers Road Small Area Plan.

# Rogers Road Small Area Plan Task Force Timeline



## Location

The Rogers Road study area is approximately 330 acres. It is bounded by the Norfolk and Southern Railroad to the east, the existing residential neighborhood of Billabong Road and Homestead Place to the south, Rogers Road to the west, and the Orange County Landfill to the north. The Rogers Road study area is located in Orange County northwest of the municipal boundary of the Town of Chapel Hill and northeast of the Carrboro Municipal Boundary (Figure 2). It is also located in the Chapel Hill Transition Area, which includes areas planned to become part of the Town of Chapel Hill and within the Town's Urban Service Boundary. The Transition Areas of Chapel Hill and the Town of Carrboro were established with Orange County in 1987 through the Joint Planning Agreement (Figure 1).

Almost half of the study area (164 acres) consists of the jointly owned Greene Tract. Approximately 60 acres was deeded exclusively to Orange County pursuant to the 1999 interlocal "Agreement for Solid Waste Management." The remaining 104 acres is jointly owned by Orange County, the Town of Chapel Hill and the Town of Carrboro. The Greene Tract was originally purchased in 1984 as a potential future landfill and is located southeast of the existing Orange County landfill. A concept plan prepared by a Greene Tract Workgroup<sup>1</sup> was approved by the joint owners in late 2002. This plan identifies that 18.1 acres of the jointly owned portion will be developed for housing and the remaining acres of the jointly owned portion will be preserved and managed as open space.

The remaining portion of the study area consists of approximately 80 lots and tracts in the historic Rogers Road neighborhood. The properties are primarily accessed via Purefoy Drive off Rogers Road.

## The Joint Planning Agreement of 1987

In 1984, the Town of Chapel Hill and Orange County entered into a Joint Planning Agreement that called for the development of a Land Use Plan for the areas immediately surrounding Chapel Hill and Carrboro, but located outside the extraterritorial planning jurisdictions of the two towns. These areas outside of each Town's respective corporate limits and planning jurisdiction were known as Joint Planning "Transition Areas." Initially, the Town of Carrboro was not a party to the Joint Planning Agreement.

The staffs and Planning Boards of Chapel Hill and Orange County prepared a Land Use Plan. The Town Carrboro was also updating its Land use Plan and began to participate in the Joint Planning process. A public information meeting was held in November of 1985. The results of this meeting combined with public hearings in January and April of 1986 were merged to produce the Joint Planning Area Land use Plan. The Plan was adopted by the Chapel Hill Town Council and the Orange County Board of Commissioners on October 13, 1986.

Following efforts to streamline the review process for developments located in transition areas, the Town of Carrboro joined Chapel Hill and Orange County in adopting a new Joint Planning Agreement on November 2, 1987.

The Town of Chapel Hill Comprehensive Plan, a long range plan for future development of the Town reflects the Joint Planning Agreement and identifies an Urban Services Boundary. This boundary defines the future town limits in which it is intended that the Town will grow and provide typical urban services. The Rogers Road Study Area is within this boundary.

<sup>1</sup> The Greene Tract Work Group was comprised of elected officials. They met in 2002 to determine the use for the remaining 109 acres of the of the Greene Tract and to discuss the disposition of the property. The Work Group agreed that the three public purposes of open space, affordable housing, and recreation were the uses to be programmed for these 109 acres.



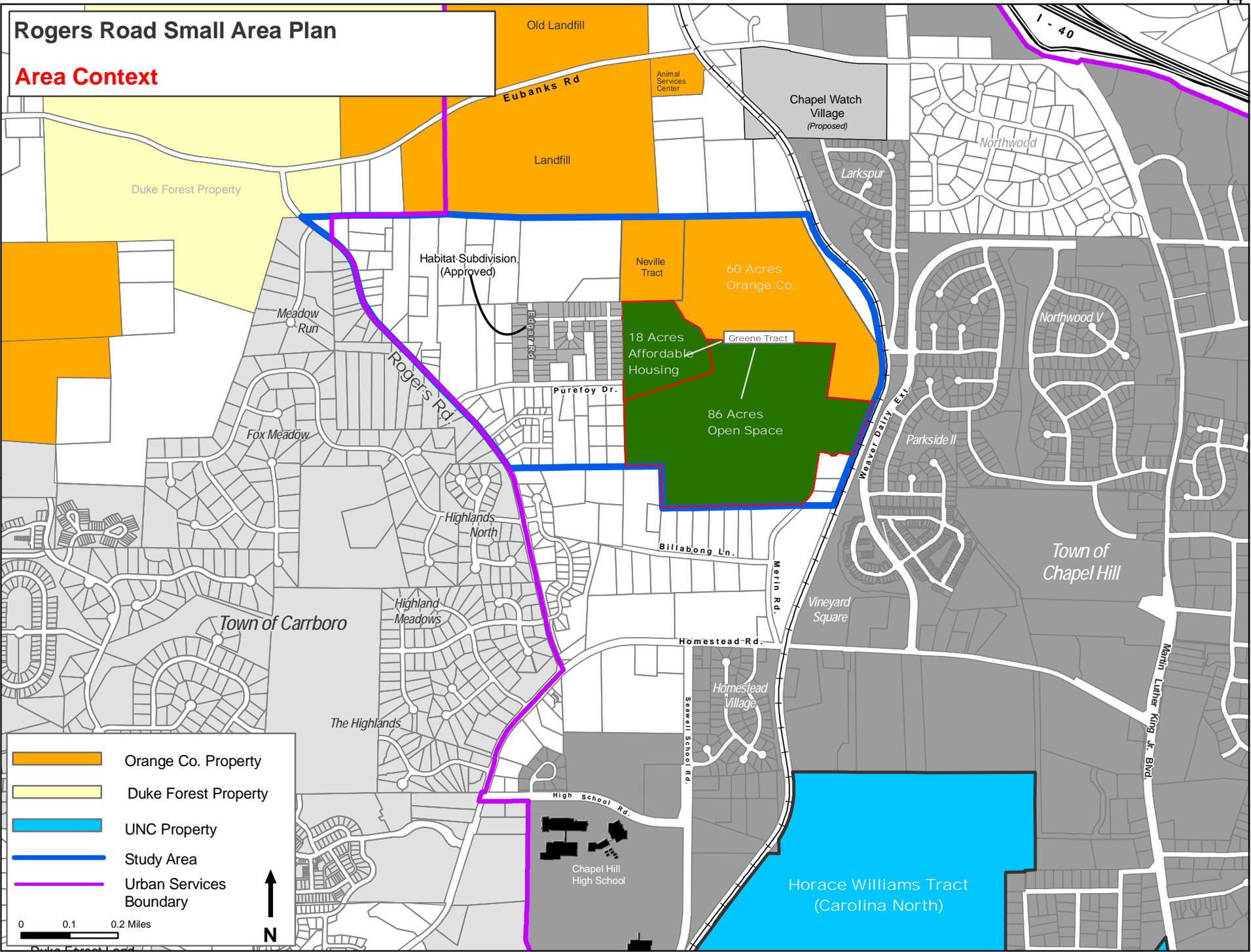


Figure 2 - Rogers Road Area Context

## History

Residents of Rogers and Eubanks Roads can trace their family landholdings back to the 1700s when some of the earliest families in Orange County, such as the Hogans and Blackwoods, settled in the area. After emancipation, African American families, like the Rogers and Nunns, began farming in the area, taking their crops for sale at the Durham farmer's market and enduring the Great Depression. During the development boom experienced by Orange County in the 1960s and 1970s, more families joined the Rogers/Eubanks Road neighborhood. The area slowly lost its agricultural focus as properties were divided among siblings and new housing was built.

In 1972, the north side of Eubanks Road became the site of a solid waste landfill to serve Orange County. This was the first permitted solid waste disposal site in Orange County and was constructed to lesser standards than the 1995 Landfill expansion on the southside of Eubanks Road. As a result of their proximity to the landfill, residents in the Rogers Road Study area have endured several decades of negative impacts associated with modern solid waste disposal practices. These include increased truck traffic, illegal dumping, a putrid stench, contaminated wells, rats and vultures.



Figure 3 - Aerial Image of Orange County Landfills

## Development and Infrastructure Concepts

The early meetings of the Rogers Road Task Force addressed the manner in which new infrastructure such as sanitary sewer and additional road access could be provided in association with new developments, particularly on the Greene Tract. The Task Force also developed a set of guiding principles and recommendations. This section describes the findings of the Task Force prior to the community design workshop in June of 2008.

### Concepts for Sewer Extension

Most of the Rogers Road study area is served with water by the Orange Water and Sewer Authority (OWASA). Water lines extend eastward from Rogers Road. OWASA sanitary sewer has been extended into the southwestern part of the study area. OWASA policy is to utilize gravity flow rather than pumping stations. Pumps are not desirable because they may fail during storms and they involve operating costs for electricity and maintenance.

In March 2007, as part of the Rogers Road Task Force discussions, OWASA staff presented a conceptual layout of a sanitary sewer network that could provide service to existing lots within the Rogers Road study area. The conceptual layout identifies new lines that would need to be constructed and an existing line extended to provide gravity sanitary sewer service to existing lots. This includes extending the existing line from the southwest, a new line to Eubanks Road in the northeast and a new line to the west which could be provided in cooperation with the Town of Carrboro.

Figure 4 on page 11 is the existing and conceptual sewer network plan for the study area. There is one concept for the Rogers Road study area with two versions ( A and B). Both rely on the extension of sewer mains into the northeastern terri-

tory of Carrboro. They differ in that Concept A serves the Neville Tract and the adjoining 24 acre Harris property from a new line to the north that ties onto the extension for the Orange County Landfill. Concept A has greater potential to facilitate subdivision of the Harris property. Construction is estimated to cost \$ 2.9 million<sup>2</sup> in 2007 dollars.

Concept B serves the same properties via a new line to the west. Construction is estimated to cost \$ 2.5 million<sup>2</sup> in 2007 dollars. Neither Concept A or B serve properties off Sandberg Lane or 3 lots off Merin Road. Concept C shows how gravity sewer could be provided to those lots not served by A or B via a new line along Billabong Lane. Billabong Lane is beyond the study area. A third concept, Concept C, would add \$1.3 million<sup>2</sup> in 2007 dollars to the construction cost of Concepts A or B and extend service to the properties in the southeastern corner of the study area.

In accordance with existing OWASA policies, benefiting properties would bear the cost of extending water and sewer lines. The Task Force also reviewed the assessment process for neighborhoods pursuing water and sewer service. Task Force members expressed great concern over the ability of existing homeowners to bear the cost of installing main lines, hooking up to services and paying utility bills, thereby decreasing the affordability of low-cost housing that currently exists in the study area.

<sup>2</sup> The proposed sewer and water lines are preliminary configurations provided by OWASA (Orange Water and Sewer Authority). If the Town decides to pursue these or other concepts, additional engineering and professional services will be needed to provide site-level detail and overall determination of project feasibility.

These estimates do not include the additional cost for connecting individual properties to the sewer system.

**Rogers Road and Surrounding Area**

**Existing and Conceptual Sewer Network**

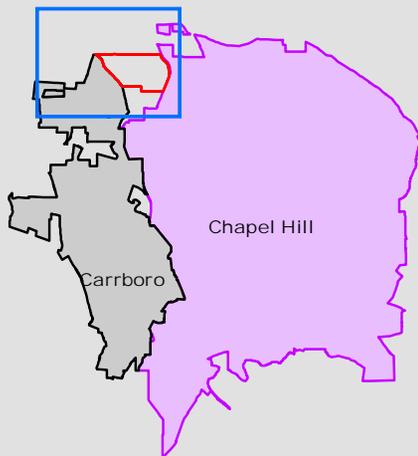
**Sewer Extension Cost Estimates**

*Adjusted for Inflation from 2007 Estimate*

Concept A	\$3,110,400
Concept B	\$2,721,600
Concept C	\$1,393,200
Concepts A+C	\$4,503,600
Concepts B+C	\$4,082,400

- OWASA Proposed Sewer
- Gravity Sewer Mains
- Proposed Landfill Gas Pipe Routing
- Rogers Road Study Area

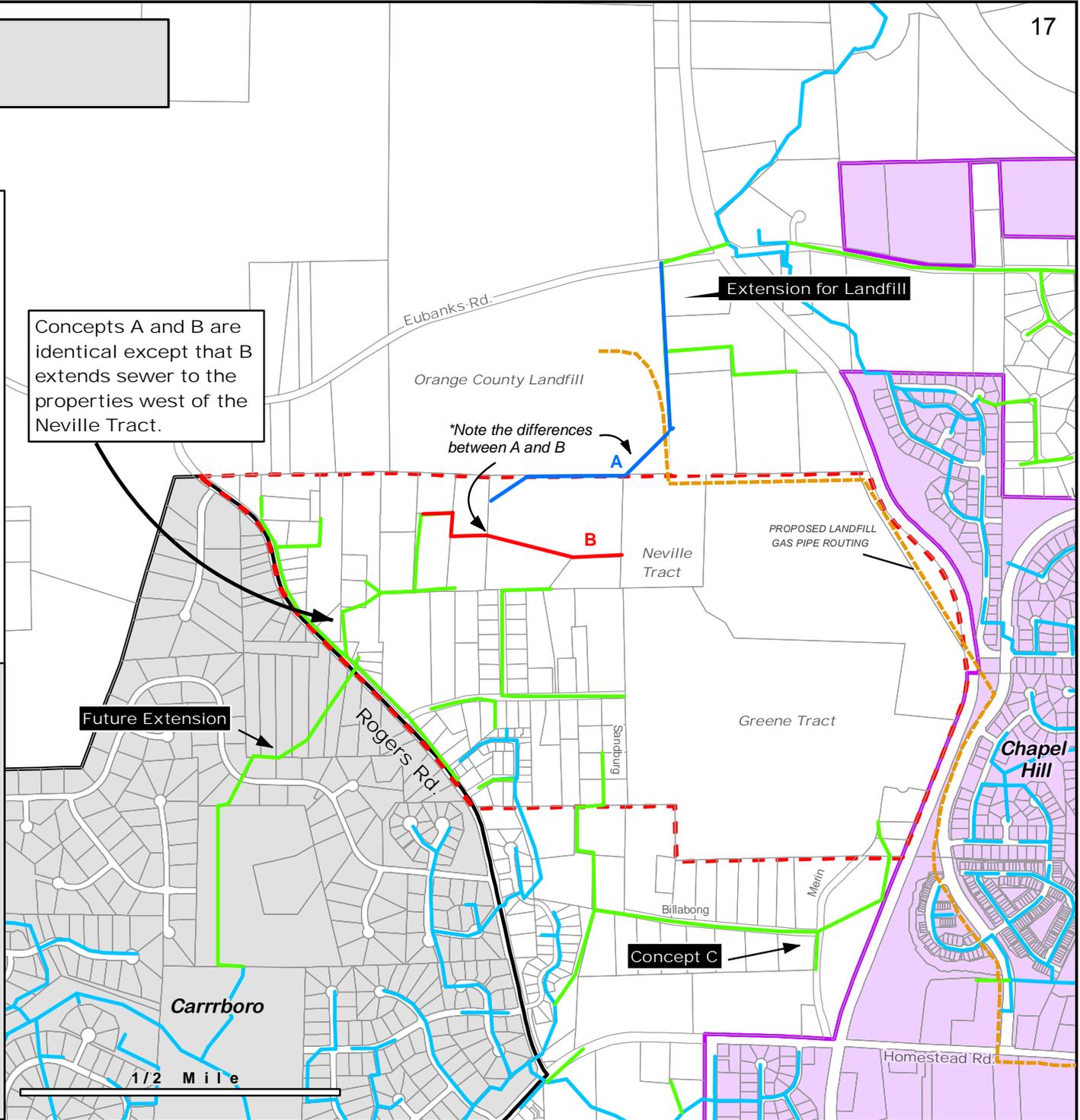
**Area of Focus**



Map by - Chapel Hill Planning  
Source: Sewer Data from OWASA



1/2 Mile



**Figure 4 - Conceptual sewer network proposed by OWASA**

## Transportation Improvements

Most properties in the study area are accessed from Purefoy Drive off Rogers Road. Rogers Road is a two lane facility currently classified as a collector street by the North Carolina Department of Transportation (NCDOT). The traffic volume in 2007 was approximately 5,000 vehicles per day, a rise from 3,000 vehicles per day in 1990. (In general traffic on Rogers Road has increased by 4 to 6 percent per year.) Purefoy Drive as currently constructed is sufficient to accommodate 500 - 1,500 vehicle trips per day.

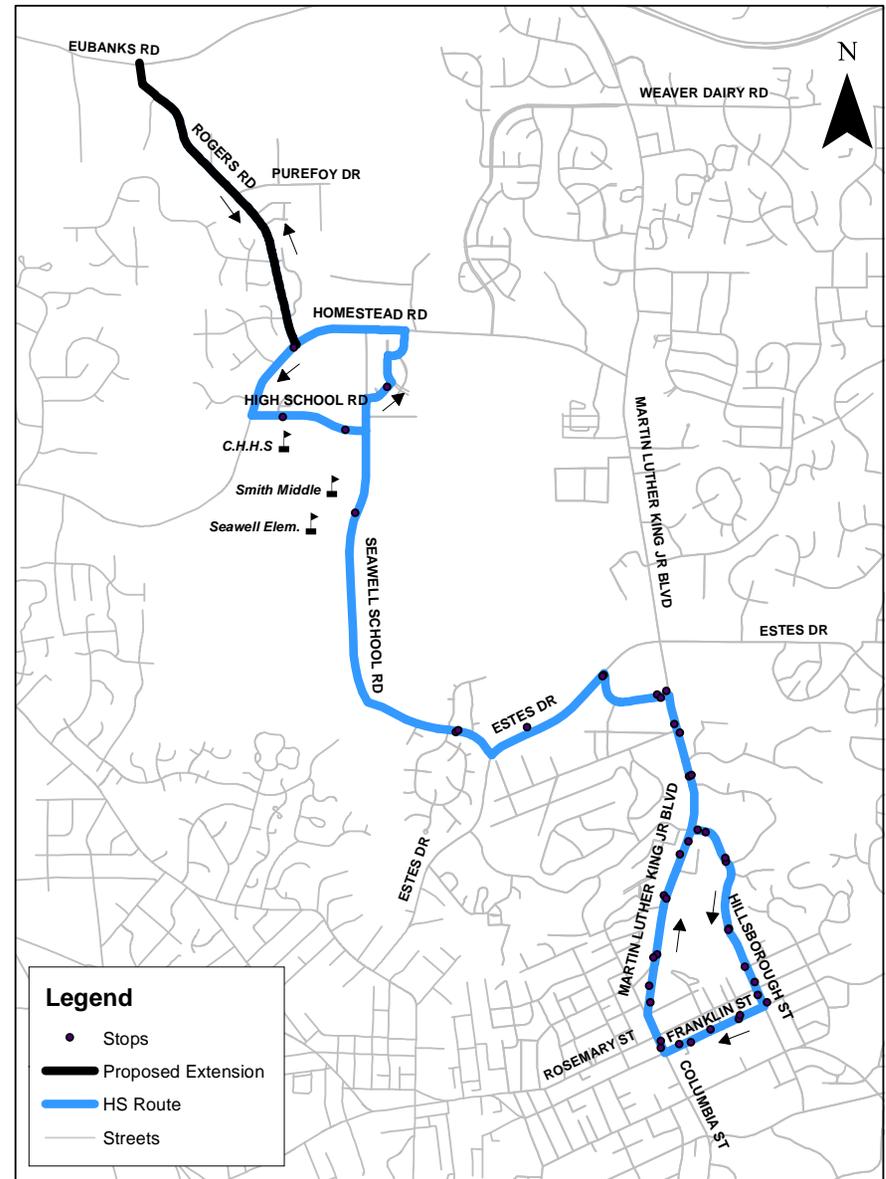
The Task Force recommendations propose that new development in the study area may require expansion or upgrade of existing streets. The Task Force identified the need for additional access to the neighborhood and more internal road connections (See Figure 6) In particular they identified the need to have a north-south roadway connection through the study area to connect to Eubanks Road.

Orange County owns approximately 70 percent of the property with frontage on Eubanks Road including the landfill site, the solid waste operations center and the animal shelter. The Task Force considered options to provide an east to west road connection to the neighborhood through the Greene Tract.

## Transit Service

Currently, the Rogers Road area is served by Chapel Hill Transit paratransit and Share-a-Ride services. Chapel Hill Transit has received funding to revise existing transit service in the Rogers Road area. It is anticipated that this expansion of transit service will be implemented by the end of the second quarter of 2009. Figure 5 shows one option for extending transit service along Rogers Road. Until additional operational and funding details are finalized, this route remains conceptual in nature.

## HS Route Proposed Extension



Source: Chapel Hill Transit  
Date: 5/27/08

Figure 5 - HS Route Proposed Extension



Figure 6 - Road Connections

# Development and Infrastructure Concepts

## The Greene Tract

The Task Force received information from the Director of the Orange County Environment and Resource Conservation Department concerning the environmental sensitivity and importance of the Greene Tract. The 2002 Greene Tract Concept Plan was adopted by Orange County, Chapel Hill, and Carrboro. The plan's sole component is a map that delineates the acreage of the jointly owned Greene Tract would be used for Affordable Housing and Open Space (Figure 7).

## Land Use Visioning Exercises

Prior to the interim Report, the Task Force took part in a land use visioning exercise in which they explored different building types, arrangement, and density. Members expressed a preliminary preference for residential densities between 1-8 Units/Acre, recreational, and small commercial land uses in the Rogers Road study area. Additionally, Town staff utilized 3-D modeling software to convey the scale of the proposed Habitat for Humanity project adjacent to Purefoy Road.



The Greene and Neville Tracts

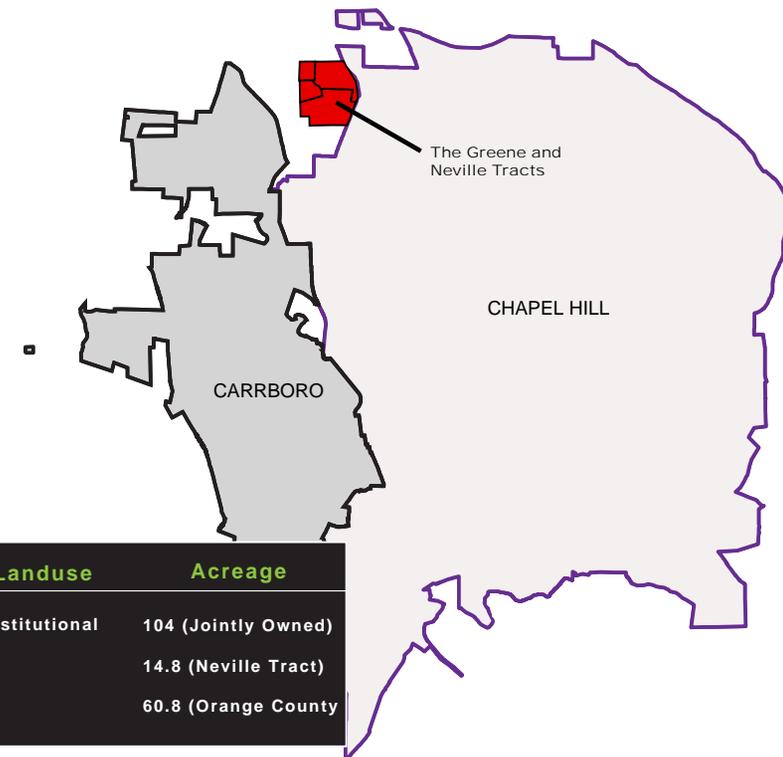
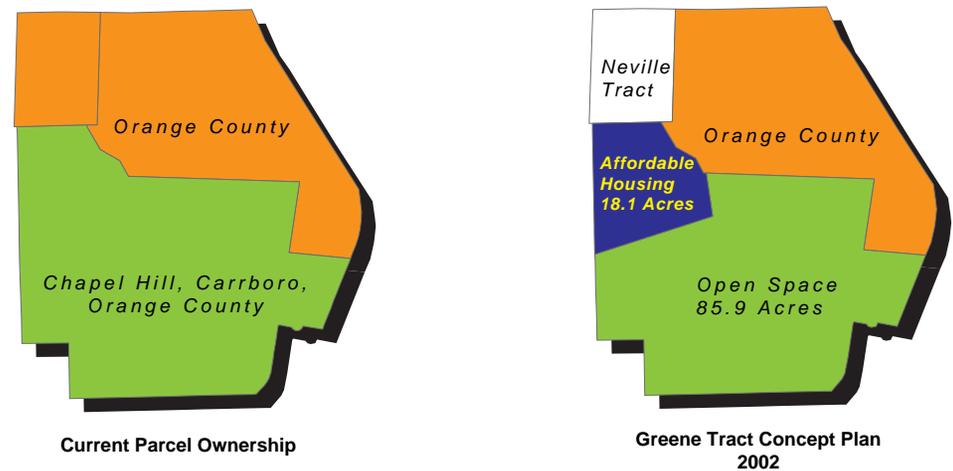


Figure 7 - Greene and Neville Tracts

## Community Design Workshop

For the Task Force to further develop its vision, the Town contracted with the Durham Area Designers (DAD) to host a workshop in the Summer of 2008. The information from early Task Force meetings provided a foundation for this interactive process. The community design workshop was on Saturday, June 7, 2008. The objective was to find a community consensus for components of the proposed small area plan.

The Components of a small area plan include:

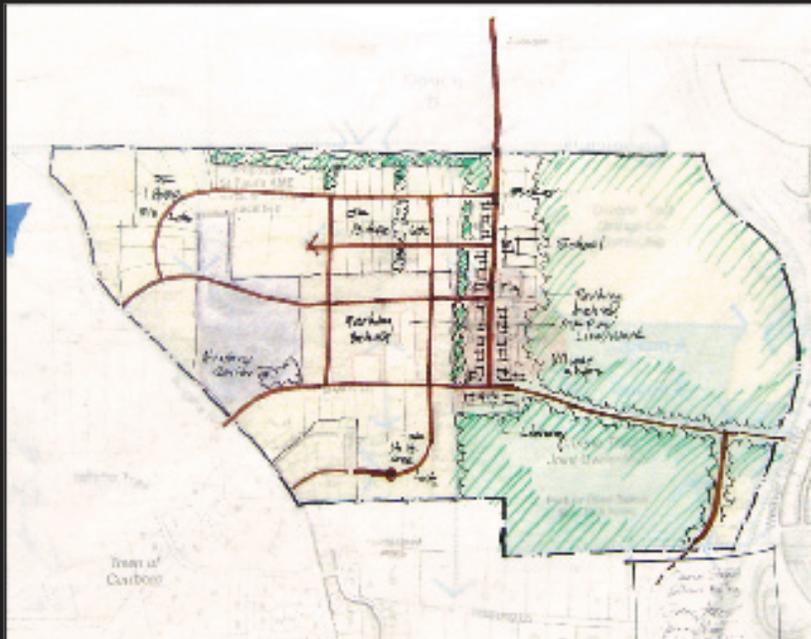
- Land use guidelines
- Appearance guidelines
- An expanded multi-modal transportation network
- Infrastructure improvements
- Community development strategies

The workshop included a presentation describing the community and introduced tools and concepts for use during the workshop. Attendees divided into three teams designated A, B, and C. Two members of the DAD Urban Design Assistance Team were at each team table to facilitate the work and provide design assistance for visualizing the team members' ideas.

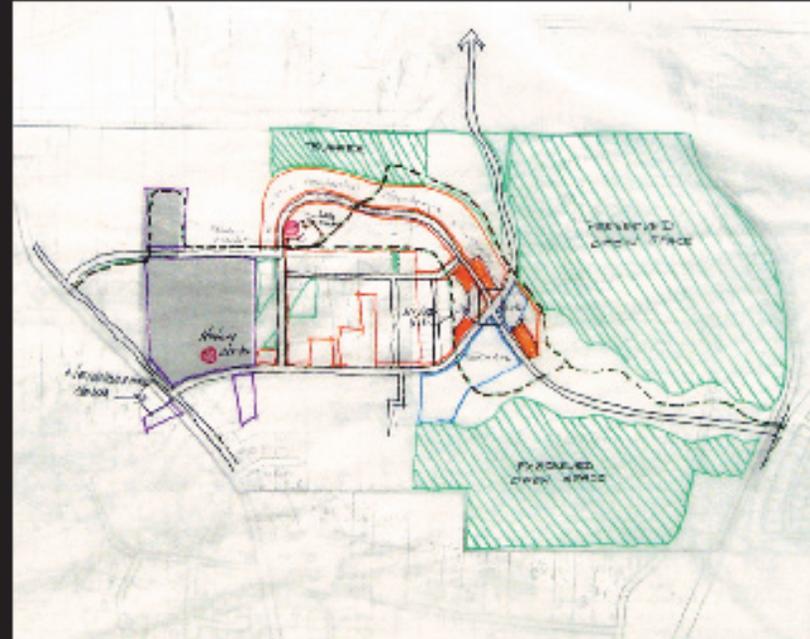
The workshop included two design sessions at which each team developed ideas. These ideas included a new road and trail network, suggestions for types of development in specific areas of the community, and plans for preservation of Rogers Road's unique cultural heritage. After each of the design sessions, each team shared its ideas with the group. This process allowed ideas to become the property of each team as it molded its conceptual plan of future development in the Rogers Road community. The individual plans developed by each team are included in Figure 8 on page 16.

From the analysis of the different schemes developed at the design workshop, the Urban Design Assistance Team proposed a plan for both land use and open space as well as written recommendations. This work was presented to the task force and workshop attendees at a meeting on July 31, 2008, at which time the findings and the proposed land use plan were presented for discussion and approval. The final land use plan (Figure 9) and recommendations are presented in the next section.

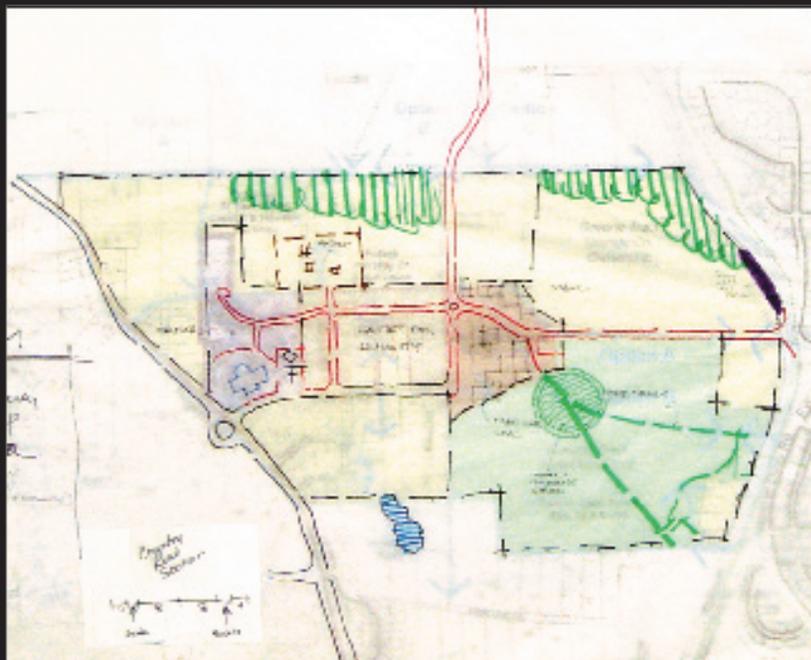




Team 1



Team 2



Team 3

### Areas of Commonality

- 1 Connection north to Eubanks Road
- 2 Connection across the railroad track on Weaver Dairy Extension using Purefoy Road
- 3 Two plans and possibly the third show an east-west road to the north of Purefoy, connecting to Rogers Road
- 4 Cross-roads at the center of the area to become a community center with mixed-use development; might include a community center/library
- 5 School near the center of the area
- 6 Buffer on the north side of study area to shield the area from the landfill site
- 7 The historic house is retained in all plans and made part of the proposed Church complex
- 8 Greater density of development to lessen the individual cost of sewer; at the same time, areas near Rogers Road and along the north side of area seen as less dense to retain the current feel of the area
- 9 Farmers' market and community gardens
- 10 The community needs to write a cultural history and create a plan to preserve its cultural heritage

Figure 8 - Individual plans from Design Workshop

## Land Use Master Plan

Once the community design workshop was completed, the Durham Area Design Group merged key concepts from the plans of each team into a composite Land Use Master Plan (Figure 9). The Master Plan and associated road network is meant to be conceptual in nature. If this report is adopted as a component of Chapel Hill's Comprehensive Plan, this land use plan would serve as a guide for Chapel Hill and Joint Planning Area Land Use Map amendments. Figure 10 is the Task Force's Land Use Plan in a format prepared by Town staff.

The Rogers Road Master Plan also suggests potential alignments for new roads recommended by the Task Force. Figure 11 "Conceptual Street Network with Existing Streets" is meant to be conceptual in nature. It is intended to be viewed as a guide for future development rather than definitive alignments endorsed by the Task Force. The Task Force believes that any new development should adhere to principles of connectivity and utilize a grid street pattern in more densely developed areas.

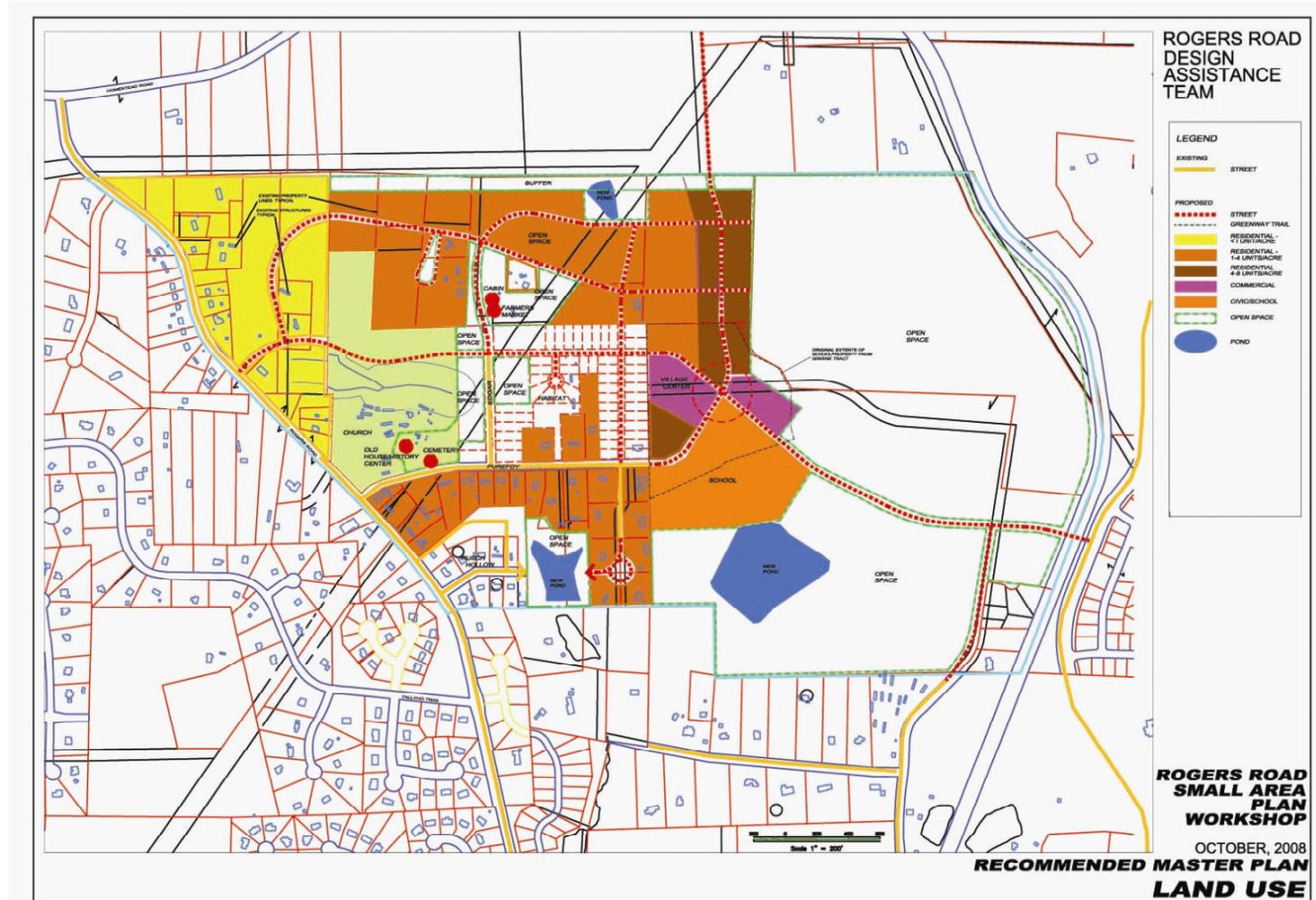


Figure 9 - Composite Land Use Plan prepared by the Durham Area Designers

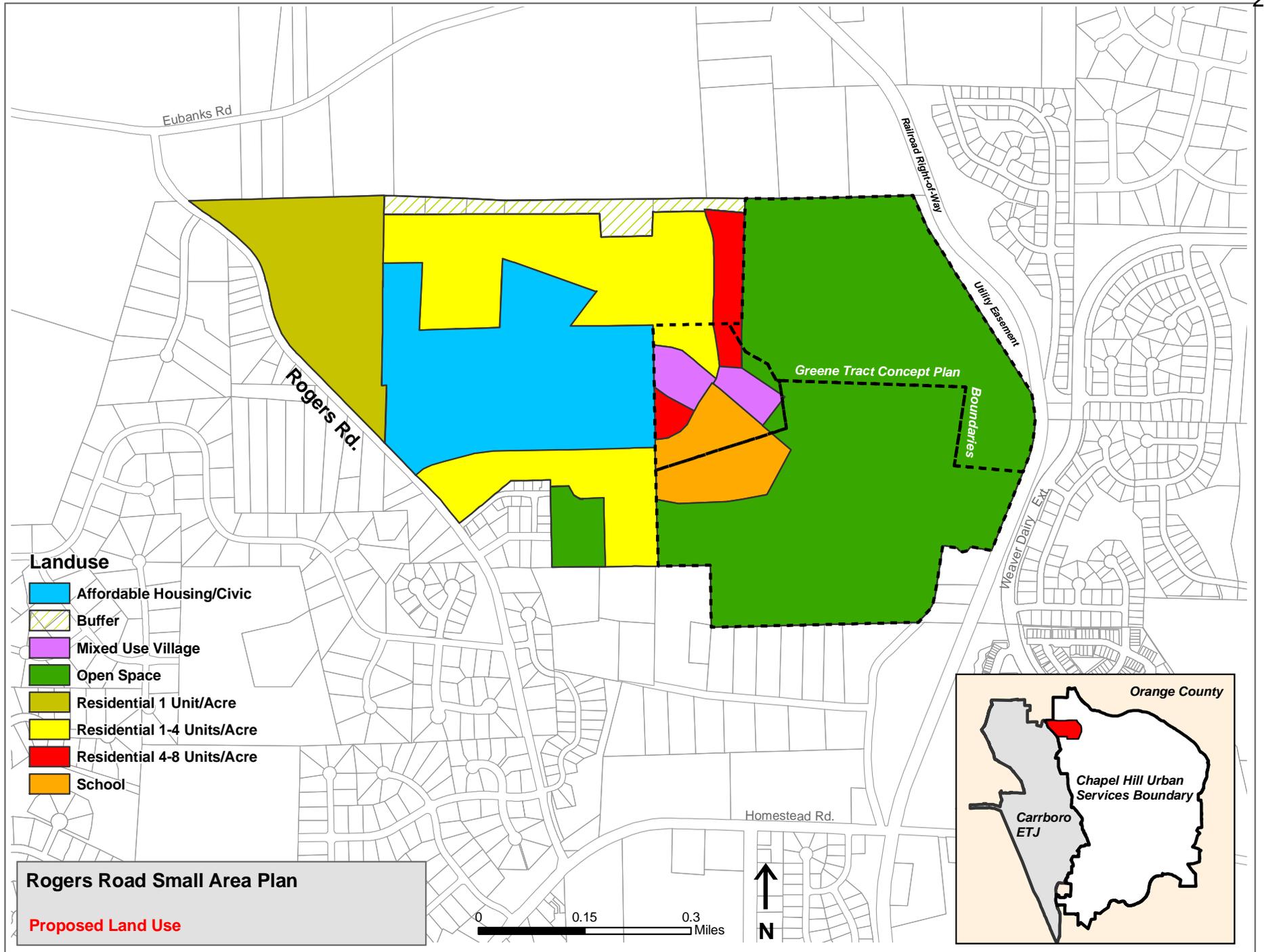
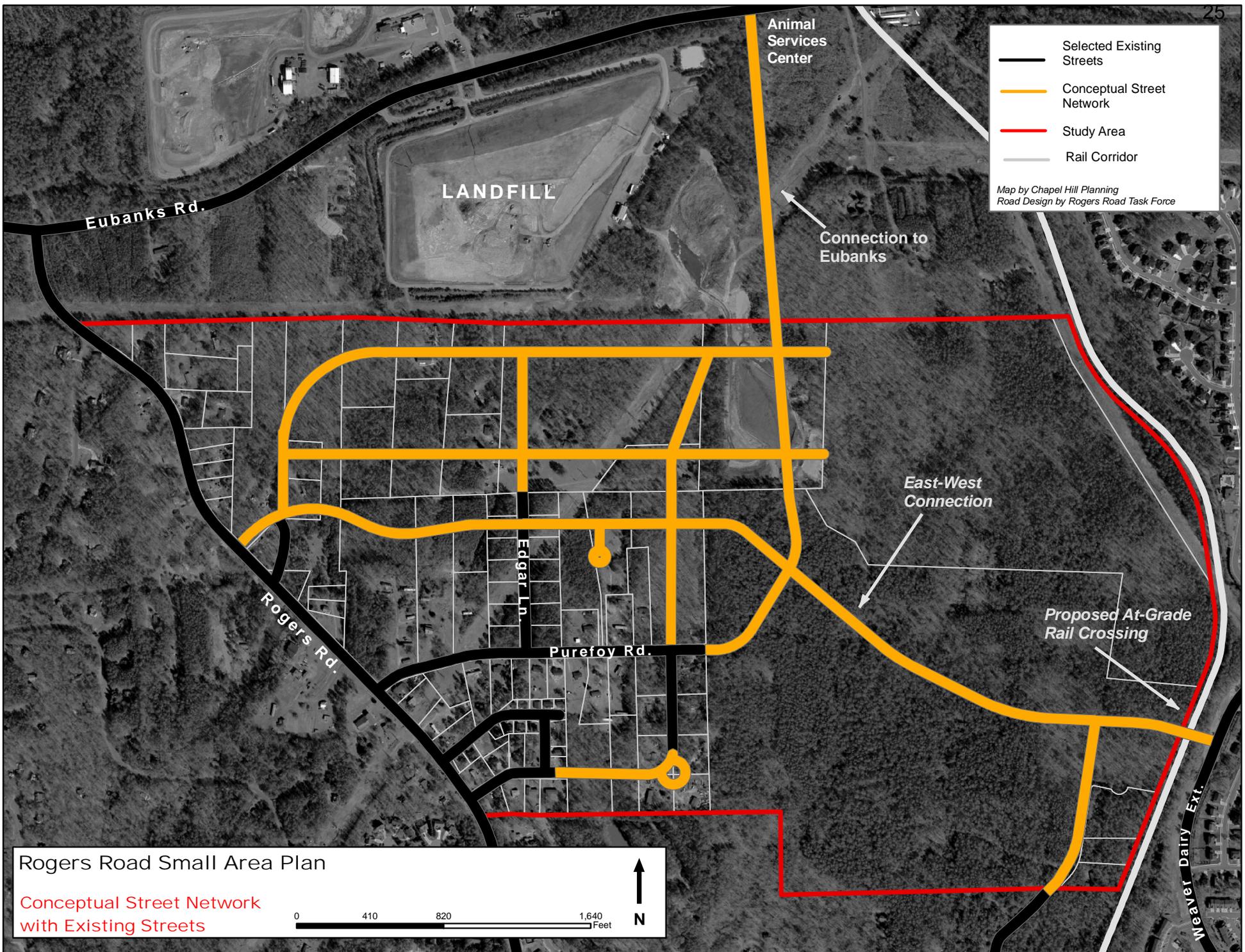


Figure 10 - Recommended Land Use



Rogers Road Small Area Plan

Conceptual Street Network with Existing Streets

Figure 11 - Conceptual Street Network with Existing Streets

## **Rogers Road Task Force Recommendations**

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### **Transportation and Infrastructure**

- Bus service should be provided to the existing community and bus service should be extended as the community develops.
- Improve transportation access through all modes (vehicles, bicycle and pedestrian, transit).
- New points of ingress and egress to the community should be established.
- A road should be built that connects the neighborhood to Weaver Dairy Rd.
- Water and sanitary sewer mains should be extended to the community.
- The Towns of Chapel Hill, Carrboro, Hillsborough, and Orange County should collaborate to identify and secure funds to be used for financing the entire cost of OWASA water and sewer connections for individual homes within the Historic Rogers-Eubanks community as part of the compensation for the 37 years of hosting the Orange County Landfill and other solid waste facilities. Attachment 1 provides a list of available funding sources at the state and federal levels.

### **Open Space and Recreation**

- Active recreation opportunities need to be provided for the Rogers Road community.
- Passive recreation opportunities such as trails should be constructed on the Greene Tract. In order to do so, the Greene Tract Concept Plan should be revised by the local governments to reflect changing conditions along with this plan.
- If a school is built in the community, explicit facility sharing relationships should be established prior to construction.

### **Design and Land Use**

- The Recommended Master Plan on page 17 should become the basis for a future land use plan amendment for the Rogers Road area.
- The Town should take the lead in initiating intergovernmental land use discussions (as required by the Joint Planning Agreement) by articulating a new vision for growth in the area.
- New development should be compact and offer a range of housing types. This will facilitate the development for a neighborhood core in the eastern part of the study area, as will the presence of a school and a neighborhood commercial district.
- Minimum setback requirements for new development should reflect the Task Force's desire to have a front porch community where life meets the street. Houses should be built close to sidewalks.
- The Task Force desires that the currently developed areas near Rogers Road and the peripheries of the study area maintain their current densities. This would allow this part of the community to maintain its rural feel.

## **Rogers Road Task Force Recommendations**

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### **Design and Land Use**

- New roads near the neighborhood core should have curb and gutter.
- A maximum building height of 45' is recommended to maintain the community's character.

### **Community Preservation**

- The two remaining historic buildings in the study area should be preserved and integrated into future community facilities.
- The Town should explore options similar to the Homestead Exemption that would enable current property owners, particularly long-time residents, Habitat residents, and descendants of the Historic Community, to retain ownership of their property.
- Local governments should collaborate with the community to develop strategies that help ensure that the majority of the housing stock be affordable to those making at or below 80% of the Area Median Income.
- Residents need to be informed of development pressures and opportunities in the Rogers Road area. This could happen through information sessions periodically hosted by the Town.
- The Town and the Community should collaborate to find innovative ways to rehabilitate declining residential properties in the area.
- Local governments with jurisdiction should revisit ordinances pertaining to the replacement of manufactured housing and strive to develop rules to allow existing housing to remain in place.
- The Town and the Rogers Road community should maintain the type of meaningful dialogue that was made possible by the efforts of the Task Force and by the work done during the design workshop.

## Implementation

The Rogers Road Task Force developed a long-range vision for future land uses and desirable community enhancements. The proposed Rogers Road Small Area Plan Implementation Plan supports the Task Force vision and addresses the related social, economic, and environmental issues that affect the Rogers Road Community. Because of Joint Planning Jurisdiction, collaboration between the Towns of Chapel Hill and Carrboro, along with Orange County, will be necessary to implement many of the Task Force recommendations. Outlined below are a series of implementation actions and preliminary implementation schedule intended to achieve the recommendations of the Task Force. Figure 12 on pages 24-25 is a proposed implementation schedule.



*The Task Force suggested that this log cabin, located in the Rogers Road Study Area, could be a focal point for a Community Garden or a Farmers Market in the future.*

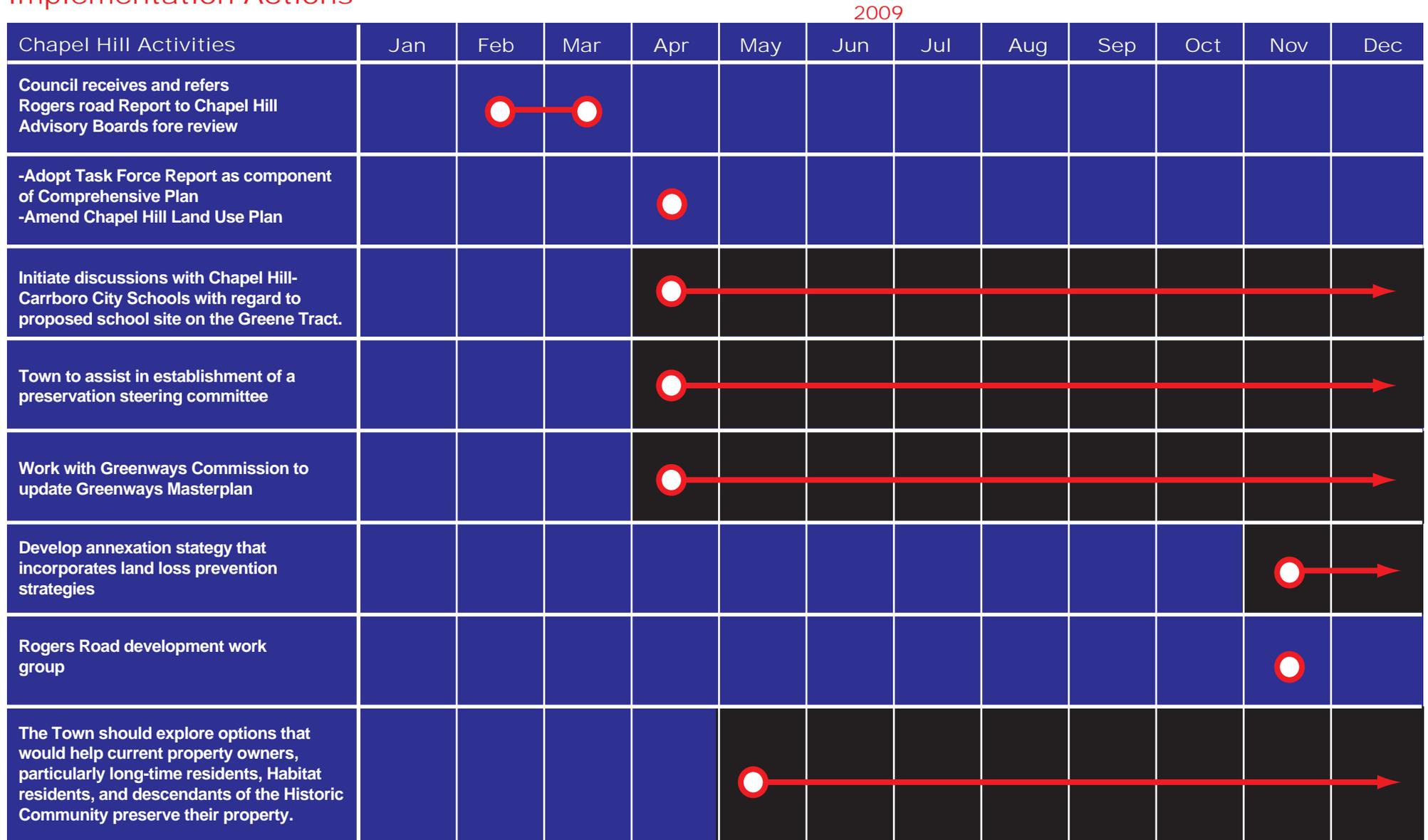
- A: Task Force to provide the Rogers Road Task Force Report to the Town Council with a request that the report be adopted as a component of the Town's Comprehensive Plan and with an associated amendment to the Chapel Hill Land Use Plan.
- B: Town Council to initiate the Joint Planning process to amend the Joint Land Use Plan.
- C: Establish a work group of elected officials and appointed staff from each jurisdiction and OWASA to identify responsibilities that Chapel Hill, Carrboro, Orange County, and OWASA would need to assume to implement the Rogers Road Small Area Plan vision.
  - C<sub>1</sub>: Work group to develop a utility funding and phasing plan for water and sewer connections for review by the three local governments.
  - C<sub>2</sub>: Work group to identify transportation and traffic calming projects and funding options consistent with the recommendations of the Rogers Road Small Area Plan.
  - C<sub>3</sub>: Review Greene Tract agreement and related Concept Plan to incorporate the recommendations of the Rogers Road Small Area Plan
- D: Town Council to ask the Chapel Hill-Carrboro City Schools to determine the facility needs to construct an elementary school in the Greene Tract.
- E: Town Council to ask the Greenways Commission to prepare an update of the Chapel Hill Greenways Master Plan to reflect the trail system proposed by the Task Force, for Council consideration.
- F: Town staff to develop an annexation strategy for the Rogers Road area reflecting the final water and sewer implementation plan (developed by work group established through C) and the provision of additional Town services. This strategy should include land loss prevention measures intended to keep existing residents in their homes.

## Implementation

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- F: Town staff to facilitate dialogue about annexation with the residents through the work group established in action C.
- G: Town Council to establish a Community Preservation Steering Committee to assess the feasibility of restoring the historically significant buildings of the Rogers Road study area, preserving the cemetery, and addressing other issues of historical significance.
- H: The Town staff to host a development information workshop at which town staff, developers, and property owners could discuss market trends and potential development options.
- I: The Town staff to work with residents to identify appropriate sites for a community garden project in the Rogers Road area.
- J: The Town should explore options similar to the Homestead Exemption that would enable current property owners, particularly long-time residents, Habitat residents, and descendants of the Historic Community, to retain ownership of their property.

Implementation Actions

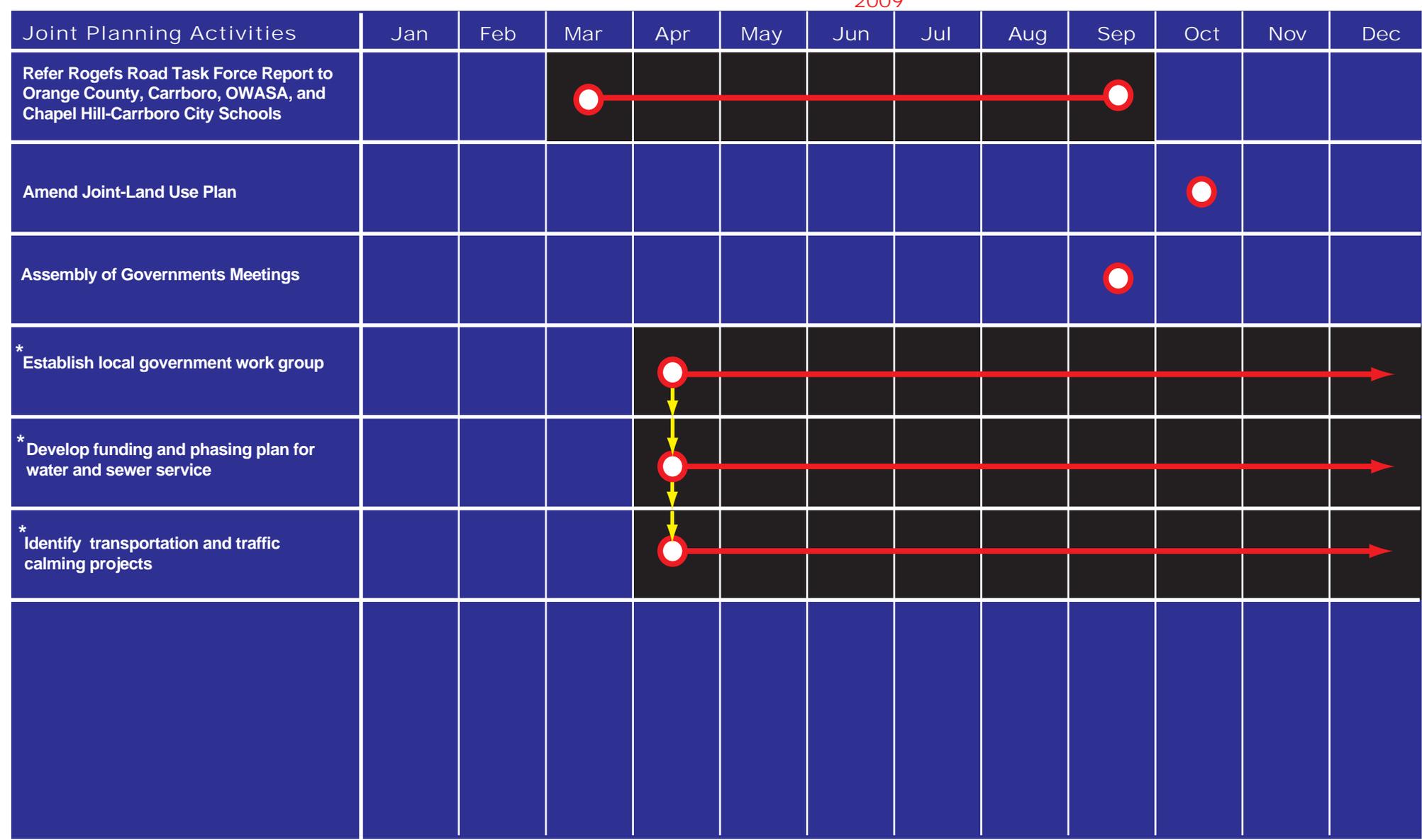


*This timeline represents the actions Chapel Hill could take alone with regards to implemenation. Dates proposed are subject to change.*

**Figure 12 - Implementation Schedule**

## Implementation Actions

2009



*\*This timeline represents proposed collaborative efforts between Chapel Hill, Carrboro, Orange County, and OWASA needed to implement the recommendations of the Task Force.*

**Figure 12 - Implementation Schedule**

## **Acknowledgements**

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### **Town of Chapel Hill Planning Staff**

J.B. Culpepper - Director  
David Bonk - Long Range and Transportation Planning Manager  
Garrett Davis - Long Range Planner  
Scott Simmons - Graphics Specialist

### **Orange Water and Sewer Authority**

Ed Holland - Director of Planning  
Joe Leo - Engineering Technician

### **Orange County**

Craig Benedict - Director  
Perdita Holtz - Planning Systems Coordinator / Planner III

### **Town of Carrboro**

Roy Williford - Director



NC Water, Wastewater and Stormwater Funding Sources

Compiled by UNC EFC  
June 2008

Organization	Program	Purpose or Use of Funds	Application Dates	Website	Contact
<b>North Carolina Department of Commerce, Division of Community Assistance (DCA)</b>	Community Development Block Grants (CDBG) (HUD funds)	To improve housing and economic development for low and moderate income communities	Typically, spring through the year's end.	<a href="http://www.nccommerce.com/en/CommunityServices/">http://www.nccommerce.com/en/CommunityServices/</a>	Gloria Nance-Sims, Director gnance-sims@nccommerce.com 919 733-2850; 919 733-5262 (fax) 4313 Mail Service Center Raleigh, NC 27699
<b>USDA Rural Development</b>	Water and Wastewater Loans and Grants	Funds are for eligible community water, sewer, storm sewer, and solid waste projects.	Applications received year round.	<a href="http://www.rurdev.usda.gov/nc/wwd.htm">www.rurdev.usda.gov/nc/wwd.htm</a>	Roger Davis, Program Director roger.davis@nc.usda.gov (919) 873-2061 4405 Bland Road Raleigh, NC 27609
	Emergency Community Water Assistance Grants	These grants may be available to eligible rural communities in event of natural disaster or other acts that cause significant damage to a water or sewer system.	Contact NC State office. Applications received year round.	<a href="http://www.rurdev.usda.gov/nc/wwd.htm">www.rurdev.usda.gov/nc/wwd.htm</a>	Roger Davis, Program Director roger.davis@nc.usda.gov (919) 873-2061 4405 Bland Road Raleigh, NC 27609
	Very Low-Income Housing Repair Loans and Grants (Section 504)	504 REPAIR LOANS AND GRANTS - Single Family Housing makes loans and grants to provide rural residents with safe and affordable homes.	Contact a local USDA Rural Development Office.	<a href="http://www.rurdev.usda.gov/nc/504rep.htm">www.rurdev.usda.gov/nc/504rep.htm</a>	Mel Ellis, NC Program Director mel.ellis@nc.usda.gov (919) 873-2060 Area contacts listed at <a href="http://www.rurdev.usda.gov/nc/dolist.htm">www.rurdev.usda.gov/nc/dolist.htm</a>
	Water and Wastewater Loans and Grants	Funds are for eligible community water, sewer, storm sewer, and solid waste projects.	Applications received year round.	<a href="http://www.rurdev.usda.gov/nc/wwd.htm">www.rurdev.usda.gov/nc/wwd.htm</a>	Roger Davis, Program Director roger.davis@nc.usda.gov (919) 873-2061 4405 Bland Road Raleigh, NC 27609
<b>Economic Development Administration, Department of Commerce</b>	Public Works and Development Facilities Grant Program	These grants support projects that promote economic development in economically distressed areas.	Proposals are accepted on a continuing basis.	<a href="http://www.eda.gov">www.eda.gov</a>	Philip Trader ptrader@eda.doc.gov (404) 730-3017 Economic Development Administration 401 West Peachtree Street NW Suite 1820 Atlanta, GA, 30308-3510
<b>NC Division of Environmental Health</b>	Public Water Supply Section - Drinking Water SRF Loan Program	Planning, designing, and construction for the purpose of upgrading, expanding, extending, rehabilitating or consolidating water systems.	DWSRF application deadline is September 30 each year.	<a href="http://www.deh.enr.state.nc.us/pws/srf/index.htm">www.deh.enr.state.nc.us/pws/srf/index.htm</a>	Sid Harrell sid.harrell@ncmail.net (919) 715-3216 Public Water Supply Section Division of Environmental Health 1634 Mail Service Center Raleigh, NC 27699-1634
<b>Clean Water Management Trust Fund (CWMTF) Grants</b>		Grants fund projects to protect and restore surface water quality, such as stormwater management, stream restoration, wetland acquisition, and improvements or repairs to wastewater treatment systems.	Application deadline is March 1 each year.	<a href="http://www.cwmtf.net">www.cwmtf.net</a>	Beth McGee, Deputy Director beth.mcgee@cwmtf.net (919) 716-0055 Clean Water Management Trust Fund 1651 Mail Service Center Raleigh, NC 27699-1651

Organization	Program	Purpose or Use of Funds	Application Dates	Website	Contact
<b>North Carolina Construction Grants and Loans Section</b>	Clean Water State Revolving Fund	The CWSRF program is available to fund a wide variety of water quality projects.	Applicants must be scheduled on Priority Funding List before March 31st.	<a href="http://www.nccgl.net/fap/cwsrf/index.html">www.nccgl.net/fap/cwsrf/index.html</a>	Daniel Blaisdell, Chief daniel.blaisdell@ncmail.net (919) 715-6211 DENR Construction Grants and Loans Section 1633 Mail Service Center Raleigh, NC 27399-1633
<b>Appalachian Regional Commission (ARC)</b>	Supplements to Other Federal Grants	ARC offers Community Development Supplemental Grants for water projects in the designated Appalachian regions in 13 eastern states.	Contact your state ARC program manager for more information.	<a href="http://www.arc.gov">www.arc.gov</a>	Olivia Collier, Appalachian Program Manager ocollier@ncommerce.com (919) 733-2853 ext. 252 Appalachian Regional Commission Grant Program 1307 Glenwood Avenue Raleigh, NC 27699-4313
<b>NC Rural Economic Development Center</b>	Supplemental Grants Program, Capacity Building Grants Program	The Rural Center administers grant programs to help rural communities develop the water and sewer systems they need to support local economic growth and ensure a reliable supply of clean water.	Application deadlines are 5:00 p.m. on the last business days of March and September.	<a href="http://www.ncruralcenter.org/grants/water.htm">www.ncruralcenter.org/grants/water.htm</a>	Julie Haigler Cubeta, Senior Director, Physical Infrastructure Office jhaiglercubeta@ncruralcenter.org (919) 250-4314; (919) 250-4325 (fax) N.C. Rural Economic Development Center 4021 Cary Drive Raleigh, NC 27610
	Economic Infrastructure Grants	Grant funds are used to generate new jobs in rural or urban, economically distressed communities through water and wastewater improvement projects.	Pre-applications taken on a rolling basis.	<a href="http://www.ncruralcenter.org/infrastructure/">www.ncruralcenter.org/infrastructure/</a>	Julie Haigler Cubeta, Senior Director, Physical Infrastructure Office jhaiglercubeta@ncruralcenter.org (919) 250-4314; (919) 250-4325 (fax) N.C. Rural Economic Development Center 4021 Cary Drive Raleigh, NC 27610
<b>North Carolina Division of Water Quality</b>	Clean Water Act Section 319(h) Grants	Section 319 funds support projects designed to reduce nonpoint source distribution. The NC Division seeks Base Funded Proposals (funding for education and demonstration of innovative best management practices) and Incremental Funded Proposals (water quality restoration funding).	Proposals will be accepted for about three months beginning in November 2007.	<a href="http://h2o.enr.state.nc.us/nps/Section_319_Grant_Program.Htm">http://h2o.enr.state.nc.us/nps/Section_319_Grant_Program.Htm</a>	Kim Nimmer, Grant Program Coordinator kimberly.nimmer@ncmail.net (919) 733-5083 ext. 582 Water Quality Section Division of Water Quality NC DENR P.O. Box 29535 Raleigh, NC 27626-0535
	Section 319 Nonpoint Source Grant Program	Grant program was established to provide funding for efforts to curb nonpoint source (NPS) pollution, including that which occurs through stormwater runoff	Applications accepted between February 13 and May 15, the year prior.	<a href="http://h2o.enr.state.nc.us/nps/Section_319_Grant_Program.htm">http://h2o.enr.state.nc.us/nps/Section_319_Grant_Program.htm</a>	Heather Boyette heather.boyette@ncmail.net 919-733-5083, ext. 357 512 West Salisbury Street Raleigh, NC 27604
<b>North Carolina Division of Soil and Water Conservation</b>	Community Conservation Assistance Program	To reduce the input of nonpoint source pollution through best management practices		<a href="http://www.enr.state.nc.us/dswc/pages/ccap_program.html">http://www.enr.state.nc.us/dswc/pages/ccap_program.html</a>	Shelly Miller shelly.miller@ncmail.net 919-715-6107 Division of Soil and Water Conservation 1614 Mail Service Center Raleigh, NC 27699-1614

**Attachment B**

**Historic Rogers Road Neighborhood Task Force  
Final Report**

**September 17, 2013**

**Prepared by the Historic Rogers Road Neighborhood Task Force**

## TABLE OF CONTENTS

<b><i>Introduction</i></b>	1
Reappointment of the Historic Rogers Road Neighborhood Task Force	2
Charge of the Reappointed Historic Rogers Road Neighborhood Task Force	2
<b><i>Recommendations</i></b>	3
<b><i>Sewer Infrastructure</i></b>	
2012 OWASA Sewer Concept Plan	4
2013 OWASA Utility District Concept Plan	6
2013 OWASA Sewer Compromise Concept Plan	14
Homeowners Connections	14
<b><i>Community Center</i></b>	17
<b><i>Gentrification, Chapel Hill’s Small Area Plan, and The Greene Tract:</i></b>	18

### APPENDICES

- A. County and Town Attorneys Opinions
- B. Historic Rogers Road Neighborhood Task Force Report – December 6, 2013
- C. Town of Chapel Hill Memo to Elected Officials February 25, 2013
- D. North Carolina General Statutes 153A-376; 160A-456
- E. Lease Agreement between Habitat for Humanity and Orange County
- F. Operations Agreement: Rogers Road Community Center

## INTRODUCTION

In 1972, the north side of Eubanks Road became the site of a solid waste landfill operated by the Town of Chapel Hill. Orange County assumed operational control of the landfill as the result of an August 17, 1999 agreement between the Towns (Chapel Hill, Carrboro, and Hillsborough) and the County. The Historic Rogers Road Community has lived with this landfill for 40 years. Over many years, residents representing the Rogers Road area have voiced concerns about various operational elements associated with the landfill and the impact on the Rogers Road Neighborhood. The Neighborhood is geographically split by the Orange County and Carrboro. Orange County, as the current owner of the landfill, is taking the lead to make remediation improvement to the Historic Rogers Road Community.

A number of local government initiatives have been implemented to improve the quality of life in the Rogers Road Community and they are as follows:

1. The Solid Waste Fund paid \$650,000 to extend public water service by the Orange Water and Sewer Authority (OWASA) to the Rogers Road area.
2. Solid Waste installed gas flares to reduce odors.
3. The Town of Chapel Hill initiated bus service on Rogers Road.
4. Orange County initiated a no-fault well policy to deal with failing drinking water wells remaining in the adjoining neighborhoods.
5. Orange County approved the appropriation of \$750,000 from the Solid Waste Fund Balance to establish a Rogers Road Remediation Reserve Fund.
6. On July 1, 2011 Orange County established a \$5.00 tipping fee surcharge and a plan to incrementally increase the tipping fee each fiscal year by a minimum \$2 per ton as long as the landfill is operational to fund the Rogers Road Remediation Reserve Fund.
7. A partnership with Orange County and the University of North Carolina created a Landfill Gas to Energy Project that commenced operation on January 6, 2012 and will have an immediate and noticeable impact on the odor created by the operation of the landfill. The project will further provide a long-term renewable energy source to UNC, reducing dependence on increasingly expensive fossil fuels, and reduce carbon emissions.
8. On October 4, 2011 the Orange County Board of County Commissioners authorized staff to proceed with a "one-time" effort to clean-up illegal dump sites within three-fourths of one mile of the landfill boundary, at no cost to the individual property owners.

At the January 26, 2012 Assembly of Governments meeting, the Orange County Board of Commissioners and the Town Boards discussed the extension of sewer service and a community center for the Rogers Road Community. County and Town Attorneys (**Appendix A**) have concluded that use of Solid Waste reserves to extend sewer service to the Rogers Road Community is not consistent with North Carolina General Statutes and would subject the local governments to legal challenges. As such, a community

center does not have a relationship to Solid Waste and could not be funded from Solid Waste reserves. Therefore, funding for either the extension of sewer services and/or a community center will have to come from the County's and Towns' other general revenue sources. There was discussion on January 26 regarding the creation of a task force to address the issues.

On February 21, 2012 the Orange County Board of Commissioners authorized the creation of a new Historic Rogers Road Task Force to address sewer service and a community center. The composition of the Task Force was to include two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA). **Appendix B** is the Original Historic Rogers Road Neighborhood Task Force's Report to the Assembly of Governments on December 6, 2012

### **Reappointment of the Historic Rogers Road Neighborhood Task Force**

On February 5, 2013 the Orange County Board of Commissioners authorized the continuation of a reappointed Historic Rogers Road Neighborhood Task Force and approved the Charge of the Task Force. The composition of the Task Force includes two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA).

Appointed Task Force Members:

David Caldwell:	RENA
Robert Campbell:	RENA
Penny Rich:	Orange County
Renee Price:	Orange County
Michelle Johnson:	Carrboro
Sammy Slade:	Carrboro
Lee Storrow:	Chapel Hill
James Ward:	Chapel Hill

### **Charge of the Reappointed Historic Rogers Road Neighborhood Task Force**

1. Request that the towns confirm the continuation of the Historic Rogers Road Neighborhood Task Force and appoint members to the Task force;
2. Confirm the appointment of Commissioners Rich and Price as the County's members on the Historic Rogers Road Neighborhood Task Force;

3. Request that the Rogers Eubanks Neighborhood Association confirm the continuation of the Historic Rogers Road Neighborhood Task Force and appoint two members to the Task Force;
4. Confirm the charge and a timeline for the Task force as specified by the motion approved at the January 24 meeting:
  - To continue the Task Force for six (6) months;
  - To have the Task Force consider the final costs, provision and installation of water and sewer utility extensions preferably at no cost for members of the Historic Rogers Road community;
  - Consider options to address gentrification;
  - Consider Chapel Hill's most recent Small Area Plan;
  - Consider funding options, including the Greene Tract.
5. Specify that the Task Force provide a report to the Board of County Commissioners no later than the Board's September 17th meeting.

### **RECOMMENDATIONS**

1. That the Cost associated with the Community Center and Sewer Improvements will be shared 14% Carrboro, 43% Chapel Hill and 43% Orange County.
2. That the Sewer Concept Plan presented by OWASA in 2012 to serve 86 parcels at an estimated cost of \$5.8 million should be funded by Carrboro, Chapel Hill, and Orange County in proportion to the recommended cost sharing. The first phase of the construction should include segments 5, 6, and 8 at an estimated cost of \$3.7 million, serving 67 parcels. Funding recommended to be included in the Fiscal 2014/2015 Budgets, with the remaining 19 parcels to be constructed in the second phase and included in the Fiscal 2015/2016 Budgets
3. That the Task Force prefers the original Sewer Concept Plan presented by OWASA in 2012 to serve 86 parcels at an estimated cost of \$5.8 million. First this concept will provide sewer improvements to the entire Historic Rogers Road Neighborhood; secondly, this proposal will enable all of the partners, Orange County, the Town of Chapel Hill, and The Town of Carrboro, to equally share the costs of the Community Center and Sewer Improvements in proportion to their responsibilities. If either the Orange County Board of Commissioners or the Chapel Hill Town Council do not favor the original Sewer Concept Plan presented by OWASA in 2012 or cannot agree on the concept of an ETJ for the Historic Rogers Road Neighborhood, the Sewer

Concept Plan presented by OWASA in 2012 including only segments 5, 6, and 8 to serve 67 parcels at an estimated cost of \$3.7 million should be funded.

4. That the county petition the Town of Chapel Hill to annex all County Owned Property in the Historic Rogers Road Neighborhood.
5. That the Task Force requests that the Managers explore the collaborative approach to the Historic Rogers Road Neighborhood as outlined in February 25, 2013 Memo to Elected Officials (**Appendix C**) and report back to the Task Force on August 21, 2013.
6. That the Managers meet and talk about the options related to connecting the residents of the Historic Rogers Road Neighborhood to sewer.
7. That funding is identified for the cost of connecting from the OWASA infrastructure to the home in addition to applying for grants for low-to-moderate income persons. It is a priority of the Task Force to identify funding not only for the installation of sewer infrastructure but also cost of connections to homeowners. The Task Force recommends that the County and Towns set up a fund specifically for people in the Historic Rogers Road Neighborhood and to fund the cost of the connections from the home to the utility main

## **SEWER SERVICE**

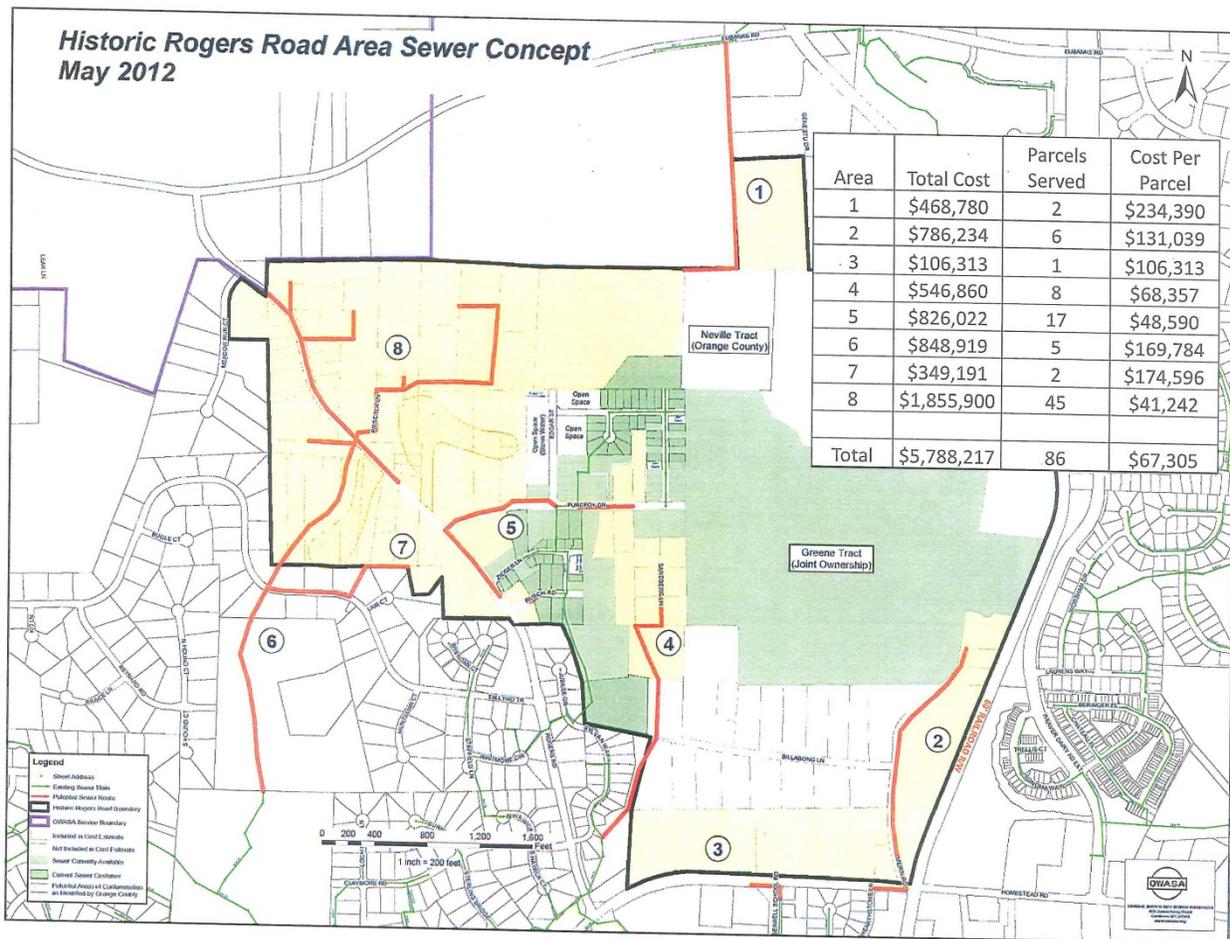
### **2012 OWASA Sewer Concept Plan:**

OWASA is the water & sewer utility for the area and as such, it investigated the concept of providing sewer service as part of the Town of Chapel Hill's Rogers Road Small Area Plan. On February 8, 2011 OWASA provided an updated concept plan and cost estimate, for the Rogers Road Small Area Plan Study Area for \$3.4 million. This early concept plan was completed based on the Chapel Hill Small Area Plan which is a geographically different area than the Historic Rogers Road Neighborhood sewer concept. There is also some difference in routing some of the main outfalls. In the current estimate, OWASA needed to avoid the area of contamination coming out from the Carrboro section that required more line with deeper excavation. Most importantly, in the earlier estimates neither the availabilities fees was included nor the cost of extending a lateral from the main line to the properties.

OWASA provided a concept plan, layout, and cost estimate for providing sewer service to the area that was delineated by the Rogers Road Neighborhood Task Force at the April 30, 2012 meeting. The concept plan is the most efficient way to serve the defined

Rogers Road Neighborhood and does not consider adjoining neighborhoods. The Reappointed Task Force reviewed the concept on March 20, 2013. **See below, Exhibit 1, the Historic Rogers Road Area Sewer Concept Map, 2012 Map.** All the green areas show where sewer service is already available. The dark green areas are parcels that have connected to the OWASA service. The light green areas have not connected. The 86 parcels in yellow are the properties that would be served by the conceptual sewer layout. The concept map also breaks down the sewer service into 8 sub-areas with the number of parcels served and cost per parcel. The 8 red lines represent the possible sub-areas of the sewer infrastructure that could be considered, if the entire concept project is not feasible. The sewer infrastructure routing was estimated based on the topography taken from maps rather than from any field work. In order to get to a greater level of detail or certainty on the cost, some field work would be required. There are two brown areas on the map that the County has identified as some subsurface disposal or some suspected contamination. Without any further investigation, the sewer line has been routed no closer than 100 feet of that margin.

**Exhibit 1**



The total construction and installation cost for the sewer concept is currently estimated to be \$5.8 million. **See the table below.** It would serve 86 additional parcels of land. The concept costs include construction, engineering design, administration and contingency for possible rock. The topography of the neighborhood is complex and the land falls in several different directions. This concept plan does not include the costs of any property acquisitions or easement acquisitions. The availability hookup charge for each of the parcels is based on an assumed average house size of 2,500 square feet. When a customer connects to the OWASA water and sewer system, there is a one-time fee that is estimated to be \$4,300 per parcel for the concept plan.

Cost estimate Summary:

Engineering , Design and Permitting	376,350
Construction Cost	3,763,506
Construction Administration	188,175
Construction Inspection	188,175
20% Contingency	903,241
Sub Total	5,419,447
Service Availability Fees	368,768
Total	5,788,215

The concept does not include the cost to actually connect individual homes to the sewer system. Those costs will vary depending on the configuration of the lot and the distance from the house to the main sewer line. Those costs are typically the costs of the homeowner and are estimated to be about \$20/foot. The connections to an individual house would be provided by a private plumbing contractor.

**2013 OWASA Utility District Concept Plan:**

The Task Force reconvened in 2013 and there was discussion about a larger district that would include sewer and water that encompasses a much greater area and would bring many more potential property owners to the table, in terms of sharing the cost and the potential to serve a lot more people. There are a couple of options that the Task

Force considered. One was a larger district including other properties outside of Rogers Road that can contribute to the cost that otherwise would be paid by the Rogers Road area. The other option would be having Task Force recommend funding solely for the 2012 Sewer Concept for the Rogers Road area and that would represent a larger per-property cost.

If a Utility District is created, it would be a separate governmental entity, so everyone within that governmental entity would have the same opportunity. Even with the creation of a Utility District the County would be responsible for funding and operating the district. The district could issue bonds to raise the funds, or more likely, the County would issue some sort of General Obligation Bond. There are several legal ways to raise the money; it will come down to the political choice of which legal way the County would choose. Either way, the County would take the lead to finance a Utility District.

A Utility District would be located outside the corporate limits of the Town of Chapel Hill. A legal concern is whether the Town of Chapel Hill could spend money outside of the town limits. There are a couple of potential ways under which that could occur. The first option is that Chapel Hill could annex either all or some of that district. In order to do so it would require a majority vote of the residents. The second option allows the extension of water and sewer lines through a community development program. The extension of utility lines can occur within a Town's corporate limits but also within the ETJ [Extraterritorial Planning Jurisdiction]. The district could be created, but there is no basis for the Town of Chapel Hill to be able to make a contribution, in the absence of either a community development program in the ETJ or annexation. The County can create a service district. Carrboro can contribute because it has areas in the service district that are within the town limits, but Chapel Hill does not.

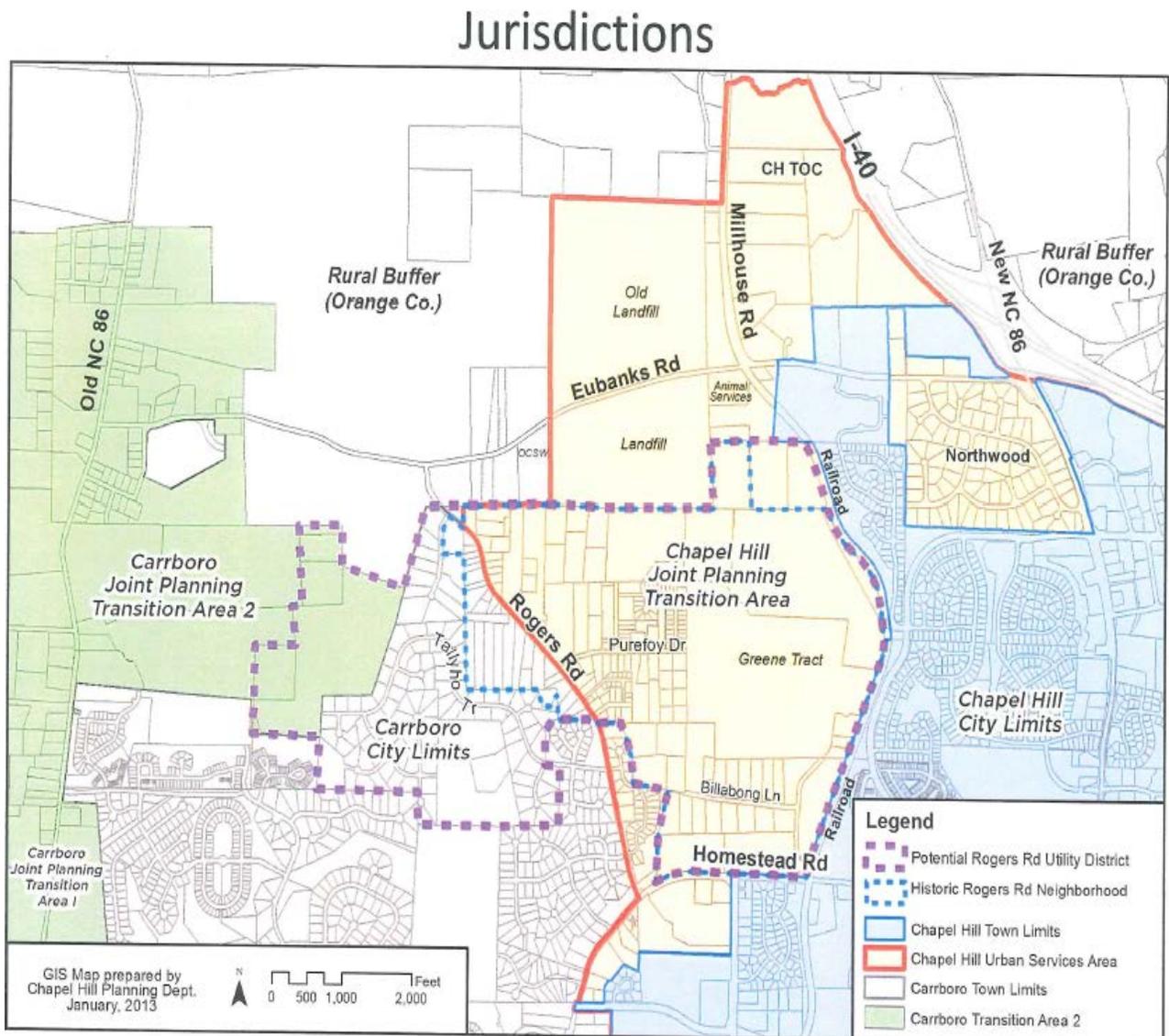
On November 14, 2012 the Historic Rogers Road Task Force recommended that the County & Town Managers explore the creation of a County Sewer District for all property owners in the Historic Rogers Road Neighborhood. This concept evolved from 2012 Sewer concept presented by OWASA, with the total cost of about \$5.8 million that would serve 86 parcels, with an average cost of \$67,000 per parcel. The Task Force asked the Managers to look at water and sewer options and see what might work; what might be a better solution or was the best solution.

The planning staffs from Carrboro and Chapel Hill looked at the sewer district and identified areas that the sewer lines go through that aren't being served by the proposed sewer. Staff identified parcels that could be served by new sewer infrastructure but also considered parcels that are not served by water. Consideration for a Proposed Utility District started with the boundaries of Historic Rogers Road Neighborhood. Adjacent properties that fell into the category of either existing development that was not currently

being served or areas that could be expected to request sewer service as the property develops in the future were included in the Proposed Utility District.

**Exhibit 2 Jurisdictions** outlines the existing jurisdictions, Carrboro Town Limits, Chapel Hill Town Limits, Chapel Hill Joint Planning Transition Area, Carrboro Joint Planning Transition Area 2, and the Historic Rogers Road Neighborhood. The thick purple line shows the possible expanded Utility district that OWASA was asked to propose as a Utility District. The blue line identifies the Historic Rogers Road Neighborhood as defined by the Task Force.

**Exhibit 2**



The Proposed Utility District above is broken down between Water and Sewer Costs. The Total Cost of the proposed Utility District is outlined below:

**Proposed Utility District**

**Total Water and Sewer Cost**

Construction Cost	\$	11,226,913
Engineering , Design and Permitting 10%	\$	1,122,691
Construction Administration 5%	\$	561,346
Construction Inspection 5%	\$	561,346
20% Contingency	\$	<u>2,694,459</u>
Sub Total	\$	16,166,755
Service Availability Fees	\$	1,414,908
Meter Cost	\$	<u>26,400</u>
Total	\$	17,608,063
Cost Per Parcel (220)	\$	80,037

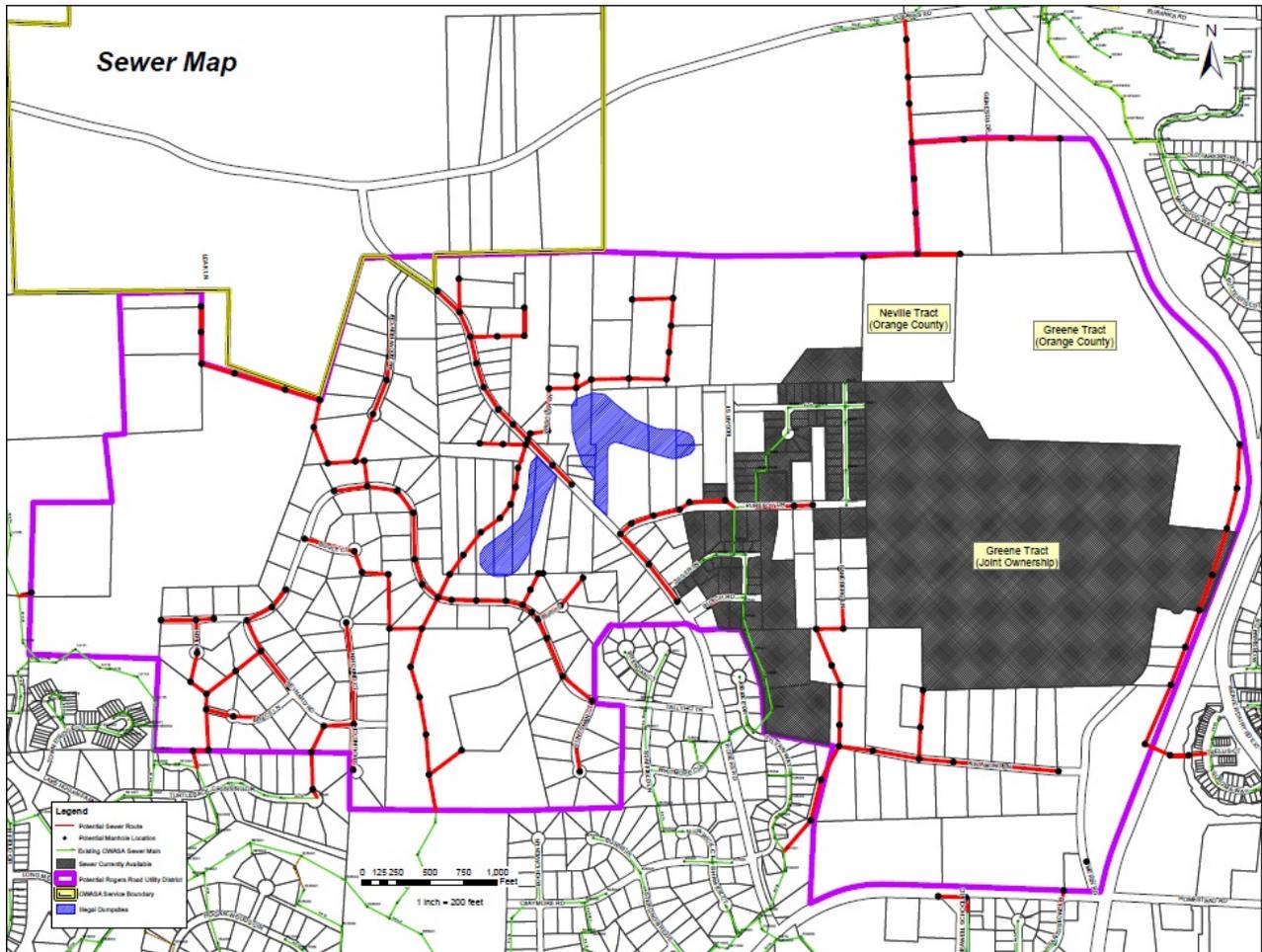
The Sewer only cost estimate is outlined below and shown on **Exhibit 3 (Sewer Map)**. Existing OWASA-owned public sewer is shown in thin green lines. The Proposed Utility District for sewer infrastructure is shown with a thick red line with black dots, representing the manholes for the new extension.

**Proposed Utility District**

**Total Sewer Cost**

Construction Cost	\$	7,441,188
Engineering , Design and Permitting 10%	\$	744,119
Construction Administration 5%	\$	372,059
Construction Inspection 5%	\$	372,059
20% Contingency	\$	<u>1,785,886</u>
Sub Total	\$	10,715,311
Service Availability Fees	\$	<u>973,500</u>
Total	\$	11,688,811
Number of parcels served 220		
Cost Per Parcel	\$	53,131

### Exhibit 3



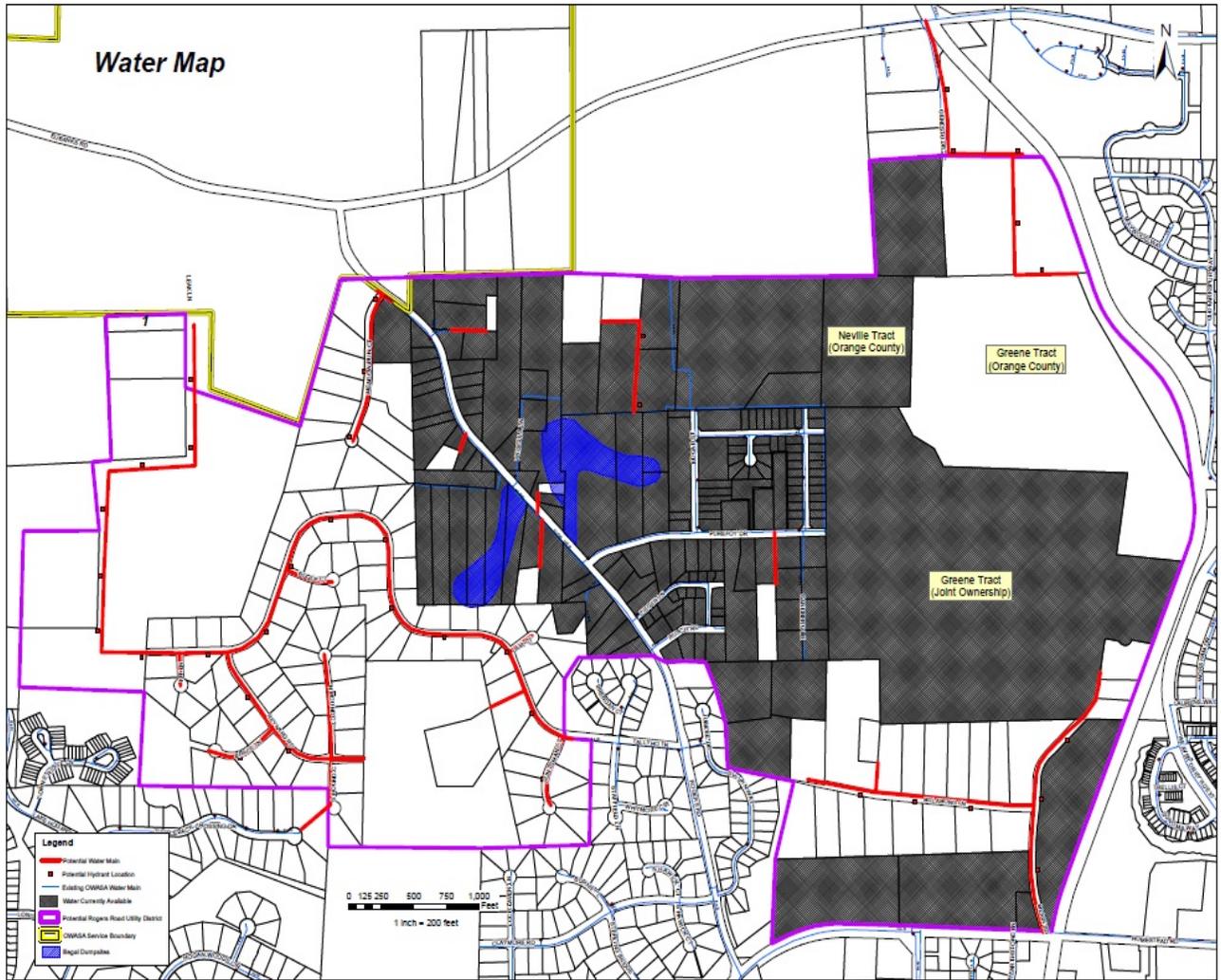
The water cost estimate is outlined below and shown on **Exhibit 4 (Water Map)**. The water map is the same as sewer, except with thin blue lines identify existing mains and the new mains are the thick red lines, with red squares as proposed fire hydrant locations.

**Proposed Utility District**

**Total Water Cost**

Construction Cost	\$ 3,835,724
Engineering , Design and Permitting 10%	\$ 383,572
Construction Administration 5%	\$ 191,786
Construction Inspection 5%	\$ 191,786
20% Contingency	<u>\$ 920,575</u>
Sub Total	\$ 5,523,443
Service Availability Fees	\$ 441,408
Meter Cost	<u>\$ 26,400</u>
Total	\$ 5,991,251
Number of parcels served 132	
Cost Per Parcel	\$ 45,388

**Exhibit 4**



All parcels that already have access to water and/or sewer on the maps are identified in a black crosshatch; some of these parcels are currently connected to OWASA’s system and some are not.

The Proposed Utility District would extend water and sewer to all parcels within the purple boundary. The newly Proposed Utility District almost doubles the amount of sewer that would need to be installed from what was proposed in May 2012. This expanded area increased the lineal feet of sewer extension required from 3.6 miles to 6.8 miles and added 4.4 miles of water main extension. The conceptual layouts for sewer and water are based on the parcel boundaries as they are currently configured and whether or not a structure or multiple structures are currently located on a parcel was not considered.

The Proposed Utility District includes all parcels and the cost per parcel in some areas will be much greater than others. **Exhibit 5 (High Cost Areas)** identifies 5 areas where the cost of new water and/or sewer infrastructure/parcel will be the highest. If the high cost areas are removed until additional development occurs in the Proposed Utility District the initial cost of the Utility District would go from \$17.6 million to \$13.4 million. This represents a 24% decrease in the initial cost, which could be the final phase of the Utility District, and would eliminate water and/or sewer service to 22 parcels. The cost for the High Cost Areas is outlined below:

**Proposed Utility District Less High Cost Areas**

**Total Water Cost Less High Cost Areas**

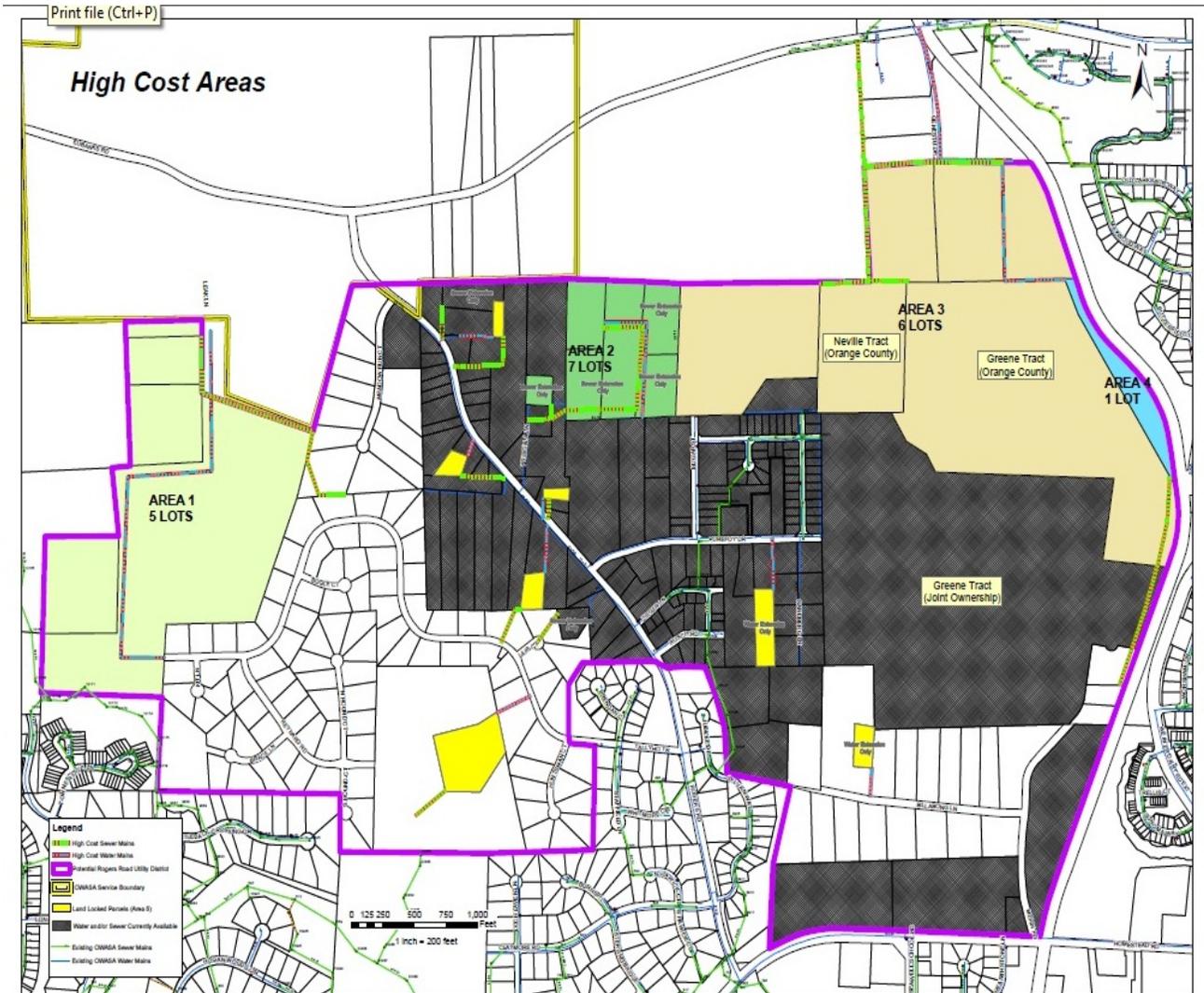
Total Overall Cost for Water	\$ 5,991,251
Minus High Cost Areas for Water	<u>\$ 1,826,331</u>
Total Water	\$ 4,164,920

**Total Sewer Cost Minus High Cost Areas**

Total Overall Cost for Sewer	\$ 11,688,811
Minus High Cost Areas for Sewer	<u>\$ 2,465,767</u>
Total Sewer	\$ 9,223,044

<b>Total Water &amp; Sewer Cost Minus High Cost Areas</b>	<b>\$ 13,387,964</b>
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## Exhibit 5



The 2012 Sewer concept presented by OWASA had a total estimated cost of \$5.8 million that would serve 86 parcels, with an average cost of \$67,000 per parcel. The Proposed Utility District which evolved from the 2012 Sewer concept has an estimated total cost of \$17.6 million. With an expanded service area, the cost of sewer only is \$11.6 million. If the sewer component of the Proposed Utility District is broken out, sewer would serve 220 sewer parcels, with an average cost of \$53,131 per parcel.

OWASA estimates include extending one sewer service lateral from the main sewer line to the edge of the right-of-way, with a clean out, and extending one water service lateral, setting a meter box and meter at the edge of the right-of-way. This estimate does not consider any cost for hooking up those parcels that have sewer available to them now. If they already have sewer or water available to them, it's not included in the cost estimate. The costs associated with acquiring the easements that will be necessary before any construction work can begin are not included. However, whenever it was feasible to do so, proposed utilities are inside the right-of-way to minimize the number of easements that must be obtained.

### **2013 OWASA Sewer Compromise Concept:**

On June 12, 2013 the Task Force was presented a Compromise Sewer Concept based on the 2012 OWASA Sewer Concept. The intent of the concept is to bring focus on the target core of the Historic Rogers Road Neighborhood considering cost, efficiency and expediency to serve this Neighborhood.

The original 2012 Sewer Concept serves the Rogers Road Neighborhood by constructing 8 different segments at a total estimated cost of \$5.8 million. ***Exhibit 1, the Historic Rogers Road Area Sewer Concept May, 2012 Map*** shows the 8 different segments and 86 parcels that would be served with this concept. Segments 5, 6, & 8 could serve 67 parcels and are the most cost effective to construct. This concept could also be constructed as the first phase of a larger Proposed Sewer District. The Compromise Concept would serve 67 of the 86 original parcels or 77.9% and cost an estimated \$3.7 million or 64.1% of the original cost estimate. This concept could serve the core of Rogers Road, but not everyone.

### **Homeowner Connections:**

#### ***Homeowners subsidize connection:***

The County and the Towns have statutory authority to pay for or subsidize connection costs for the benefit of low and moderate income persons within their territorial jurisdiction. (**Appendix D - G.S. 153A-376; 160A-456**). Pursuant to this authority a program could be established whereby grants or loans are issued to persons who meet

designated criteria to assist those persons with the cost of connecting to a water or sewer system. It remains to be determined whether each unit of local government would operate its own program or whether a joint program would be established. A method to fund individual homeowner connections to water and/or sewer infrastructure is to create a community development fund, set up for the benefit of low-moderate income individual.

If a utility district is created, one of the benefits is that the availability of community development funds could be limited to property owners within the district. The District could not distinguish between or have differential sliding scales based on how long a resident has lived in the Rogers Road Neighborhood. After establishing a policy that makes funds available for individuals to connect to water and/or sewer utilities, for low-to-moderate income homeowners, individuals could apply for grants and/or loans to pay for utility connection charges. No one would be forced to connect to the system, but in any case the qualifying criteria would not be limited to residents of the District.

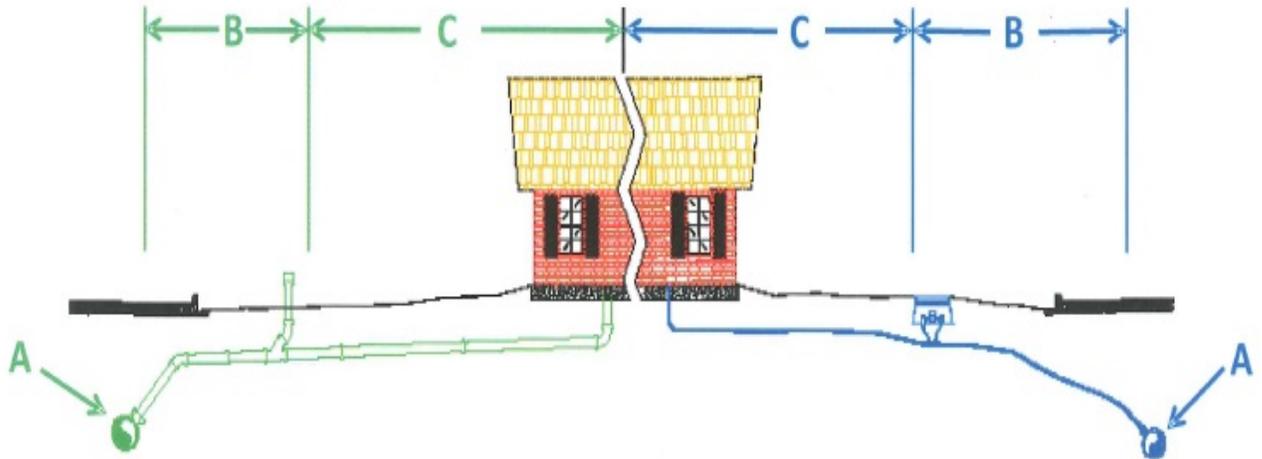
***Connection cost:***

The Proposed Utility District has not yet been formed and a fees structure has not yet been considered. The current OWASA fee structure could be used as an example of the fees a new Utility District customer would be expected to pay. A new sewer customer will be expected to pay for a sewer service lateral, a clean out and service availability fee; a water customer will be expected to pay for a water service lateral, meter box, meter, and service availability fee. The estimates are based on a 2,500 sq. ft. house, pumping out and abandoning a septic tank, a private lateral 150' long, and no internal plumbing modifications.

***Exhibit 6 (Historic Rogers Road Area Estimate Schematic)*** provides a detail breakdown of what an individual home owner could expect to pay to connect to both OWASA water and sewer. In this example, the fees paid to OWASA would be \$11,495 and the estimated cost of a private plumber is \$10,850.

Exhibit 6

## Historic Rogers Road Area Cost Estimate Schematic



<b>SEWER COST ESTIMATE PER LOT</b>	
<u>Item</u>	<u>Cost</u>
A - Sewer Main Extension	\$TBD
B - Sewer Service Lateral, Clean out and Service Availability Fee*	\$6,925
C - Private Plumbing	<u>\$7,250</u>
<b>Total: \$TBD</b>	
<u>Private Plumbing Assumptions:</u>	
<ul style="list-style-type: none"> <li>• All materials and workmanship per plumbing code</li> <li>• Cleanout installed at edge of Right of Way</li> <li>• Septic Tank pumped out and abandoned</li> <li>• Home can be served by gravity (no sump or pump)</li> <li>• Private lateral is 150' long</li> <li>• No internal plumbing modifications required</li> <li>• Assumes trenching will not require disturbance of sidewalk, driveway or landscaping</li> </ul>	
* Service Availability Fee charge assumes 2,500 ft <sup>2</sup> home	

<b>WATER COST ESTIMATE PER LOT</b>	
<u>Item</u>	<u>Cost</u>
A - Water Main Extension	\$TBD
B - Water Service Lateral, Meter Box, Meter and Service Availability Fee*	\$4,570
C - Private Plumbing	<u>\$3,600</u>
<b>Total: \$TBD</b>	
<u>Private Plumbing Assumptions:</u>	
<ul style="list-style-type: none"> <li>• All materials and workmanship per plumbing code</li> <li>• Meter box and meter installed at edge of Right of Way</li> <li>• Well disconnected from home plumbing, not abandoned</li> <li>• Private lateral is 150' long</li> <li>• Includes Pressure Reducing Valve installation, but no other internal plumbing modifications</li> <li>• Assumes trenching will not require disturbance of sidewalk, driveway or landscaping</li> </ul>	
* Service Availability Fee charge assumes 2,500 ft <sup>2</sup> home	

## **COMMUNITY CENTER:**

On April 9, 2013 the Board of County Commissioners was presented the schematic design of the Rogers Road Community Center and authorized the manager to award the bid for construction in an amount not to exceed \$650,000. The project was bid in August, 2013. The Town of Chapel Hill has expedited the site plan review, permitting and other associated processes for the project as well as waived all associated Town fees related to those processes, normally estimated to be \$25,000.

A Lease Agreement (**Appendix E**) between the County and Habitat for Humanity to lease two lots in the Phoenix Place Subdivision for an initial term of 20 years has been approved. **Appendix F**, an Operating Agreement between Orange County and the Rogers Eubanks Neighborhood Association (RENA) has been drafted and is scheduled to be presented to the Board on September 17, 2013. The agreement contracts with RENA to provide programs and activities that take place at the Community Center, and that all such programs and activities shall be open to the general public.

The County Attorney will be drafting a Memorandum of Understanding between the County and Towns to outline a capital contribution from the Towns for the construction of the Rogers Road Community Center not to exceed \$650,000. The MOU will also provide that the County will be ultimately responsible for the cost of operating and maintaining the Community Center and that the financial participation by Carrboro and Chapel Hill will be limited to the capital contributions identified below.

Costs sharing percentages are the same as identified in the 1972 Landfill Agreement, 43% for Orange County, 43% for the Town of Chapel Hill, and 14% for the Town of Carrboro. The County will construct the Community Center and reimbursement from the Towns could begin in Fiscal 2013/2014.

Budget for the Community Center:		\$650,000
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Shared Costs:

Orange County	43%	\$279,500
Town of Chapel Hill	43%	\$279,500
Town of Carrboro	14%	\$ 91,000

**GENTRIFICATION, CHAPEL HILL'S SMALL AREA PLAN,  
AND THE GREENE TRACT:**

The Task Force highlights part of the charge to the reappointed Task Force (5 Feb 2013) – “To have the Task Force consider options to address gentrification”, indicating that it has not been adequately discussed by the Task Force, nor have options been identified to address this concern, yet it remains a critical issue. Therefore, the Task Force requests that the staffs from each jurisdiction continue to work together with RENA and the other partners identified in Manager’s February 25, 2013 memo to Elected Officials (Self-Help, Jackson Center, OWASA, Chapel Hill-Carrboro City Schools), to identify challenges and craft an action plan which addresses the issue of gentrification and allied concerns. And that the progress reports/recommendations be submitted and discussed at all future Assembly of Government meetings until sufficiently resolved.

On April 17, 2013 the Managers and Attorneys presented recommendation from their meeting on April 11, 2013, Appendix G.

The County & Town Managers, and Attorneys support the concept of a multijurisdictional Development Agreement that will address utilities, gentrification and the Greene Tract for the Historic Rogers Road Neighborhood, Including:

- The concept of an expanded geographic region for a Utility District to promote water and sewer for the Rogers Road Neighborhood
- That the County would be the unit of government to create, finance, and operate a County Utility District for a geographic region that would include the Historic Rogers Road Neighborhood parcels that are not currently served by a municipal water & sewer system.
- The concept of the joint development of the Greene Tract for affordable housing, schools, and open space should be an integral part of a development plan for the Rogers Road Neighborhood.

## Appendix A

### MEMORANDUM

Memorandum to: Carrboro Mayor and Board of Aldermen

From: Mike Brough

Subject: Rogers Road Proposals

Date: November 7, 2012

County Attorney John Roberts, Chapel Hill Attorney Ralph Karpinos, and I met November 6<sup>th</sup> to discuss the managers' October 16, 2012 recommendations for constructing a Community Center to serve the Rogers Road area and to extend sewer lines into this area. We also discussed Mark Dorosin's October 23, 2012 letter recommending that, not only should sewer lines be extended into this areas, but that homes should be connected to the sewer lines at public expense. We agreed on the conclusions set forth below in paragraphs 1-5. The thoughts set forth in paragraph 6 did not occur to me until after our meeting, and therefore have not been endorsed by the other attorneys.:

1. Statutory authority exists for the towns and the county to cooperate in operating and funding a community center located in the Rogers Road area, and there are a number of ways in which this could be accomplished. However, as we understand it, the current proposal is that the county and/or the towns would pay Habitat \$500,000 to construct the facility, on land provided by Habitat, and then Habitat would lease the center to RENA, who would operate it, presumably in accordance with RENA Neighborhood Center Business Plan (Attachment B to the Agenda Item). The attorneys do not believe it is legally permissible for the county or the towns to expend public funds to fund the construction of a building on land the county does not own, under circumstances where the building would then be leased to a private organization that would use the facility to run programs of its choosing. The county could, of course, construct a community center on land it owned or leased, but it would have to put the project out for bids in accordance with applicable statutes. The operation of a community center would require annual appropriations. The county could provide staffing through its own employees or it could contract with an organization such as RENA to run programs, but these would have to be open to the general public. In short, there are many options for legally accomplishing the objective of providing a community center that would benefit the residents of Rogers Road, but the current proposal is not one of them.

2. Orange County, Carrboro, and Chapel Hill, as owners of the Greene Tract, and the County, as owner of other property used for solid waste disposal, could petition Chapel Hill to annex any properties owned by these governmental entities within the portion of the Rogers Road area that is located in Chapel Hill's ETJ or Joint Planning Area, and Chapel Hill could do so (subject to the possible exception that, if the area to be annexed was not contiguous to the existing town limits, than no lots within a subdivision could be annexed unless the entire subdivision was annexed). However, this would enable Chapel Hill to extend sewer lines only to those areas so annexed.

3. The \$900,000 that Chapel Hill, Carrboro, and Orange County agreed to pay to the Landfill Fund for the 100+ acres of the Greene Tract that were not conveyed to Orange County cannot be used to pay for either the construction of a community center or the extension of sewer lines to the Rogers Road area. The Greene Tract was acquired using landfill funds, and the \$900,000 is being paid back to this enterprise fund. Such funds can only be expended to cover the costs associated with the operation and maintenance of the landfill.

4. Proceeds from the sale of the 100+ acre portion of the Greene Tract now owned jointly by OC, CB, and CH can be used in the same manner as other unrestricted general funds. Thus, Carrboro could use these funds to extend sewer lines to unserved areas within Carrboro's corporate limits.

5. The towns and the county could appropriate funds to subsidize the cost of actually connecting homes to a sewer line, once that line has been constructed. In order to be able to point to specific statutory authority to provide such subsidies, it would be preferable to limit the availability of such subsidies to low and moderate income property owners. The attorneys do not recommend that the contractor engaged by the county and/or the towns to extend the lines be directed to construct lines connecting individual properties to the public lines because this work involves actually getting into the plumbing systems within individual homes and poses significant risks of unexpected complications and claims of damages.

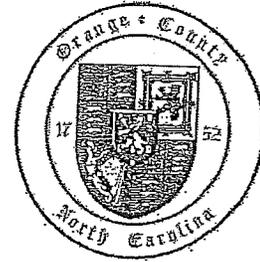
6. The managers propose that a "County Sewer District" be created for the Rogers Road area as well as adjoining areas that do not have sewer, and that the district use the special assessment process to recoup some of the costs of extending sewer service to these areas. Presumably, the proposal is referring to a County Water and Sewer District created pursuant to Article 6 of G.S. Chapter 162A. Such a district would be a legally separate municipal corporation, but the governing body of the district would be the Orange County Board of Commissioners. Such a district could issue its own bonds to raise the capital to cover the cost of extending the lines. Assessments could be based on various criteria listed in G.S. 153A-186, including "the area of land served...at an equal rate per unit of area," which would mean that properties with greater development or redevelopment potential would pay more than smaller properties, but the statute does not provide a way to exempt from the assessments specific properties based on criteria not listed in the statute. Thus, if the objective is to extend sewer lines at little or no cost to the longstanding owners of properties in the Rogers Road area, but to recapture some of the cost of extending the lines when properties in this area are developed or redeveloped, the special assessment process appears to be a useful tool.

An alternative might be to establish the District and have the District issue its bonds to raise the cost of extending the lines. Carrboro could contract with the District to pay for the cost of extending the lines to serve properties that are within the town. The District would contract with OWASA to operate and maintain the lines and to bill the customers in the same manner as other OWASA customers. (An amendment to the WSMPPBA would probably be needed). Then the District could establish a fee - call it a service line extension fee - that would be designed to recoup some of the costs incurred by the District in extending the lines. (OWASA has an "availability fee" that is designed to recoup the cost of the treatment plant and major outfalls, but

this fee does not cover the service lines because those are typically installed at the developer's expense). This fee would be paid at the same time as OWASA's availability fee - when a connection is made. The District's policy could provide that the service line extension fee would be waived for the first connection made to any property existing as of a specified date.

Office of the County  
Attorney

ORANGE COUNTY  
P.O. BOX 8181  
200 S. CAMERON STREET  
HILLSBOROUGH, NC 27278



To: Bernadette Pelissier, Chair  
Pam Hemminger, Vice Chair  
Valerie Foushee  
Alice M. Gordon  
Barry Jacobs  
Earl McKee  
Steve Yuhasz

CC: Frank Clifton, County Manager  
Donna Baker, Clerk to the Board

From: John Roberts

Date: November 12, 2012

Re: Rogers Road Area Improvement Funding

I met with the attorneys for Chapel Hill and Carrboro on November 6<sup>th</sup> to discuss various proposals to extend sanitary sewer lines into, and the construction of a community center in, the Rogers Road area (the "Neighborhood"). I will address the various proposals separately.

#### **USE OF THE \$900,000 LANDFILL RESERVES TO FUND SEWER LINE EXTENSION**

By law enterprise fund dollars cannot be used for purposes other than the direct and indirect costs of operating and maintaining the landfill. It is highly unlikely landfill operations could be tied to septic system failures in the Neighborhood. It is my understanding the \$900,000 was generated through tipping fees rather than reimbursable contributions. Assuming that is the case the \$900,000 is a part of the enterprise fund and may not be used for non-landfill operations related purposes. For these reasons the Town attorneys and I are in agreement the \$900,000 cannot be used for the extension of sewer lines.

#### **CONTRIBUTIONS TO SEWER EXTENSION COSTS BY THE TOWNS OF CARRBORO AND CHAPEL HILL**

The primary issue for contributions by the Towns to sewer line extension appears to be the limitation of Town expenditures to their own jurisdictions. Both Town attorneys agreed that in order for the Towns to fund some portion of the cost of sewer line extensions the sections of sewer lines funded must be within the Town limits. For this reason annexation of some areas may be necessary. An additional issue is the requirement that if a part of a planned subdivision is to be annexed the entire subdivision must be annexed. Because annexation is not a county issue I will rely on the Town attorneys to further explain other restrictions related to annexation.

Once annexation concerns are addressed one source of funds for these extensions could be proceeds from a sale of the Greene tract. Should the decision be made to sell this property proceeds could be used for any statutorily authorized purpose.

#### **SUBSIDIZING THE COST OF CONNECTING HOMES TO EXTENDED SEWER LINES**

The Town attorneys and I are in agreement that the County and Towns have limited statutory authority to pay for or subsidize connection costs. Additionally, without adequate upgrades connecting older home plumbing systems to modern water and sewer systems could result in internal damage to the connected structure. This represents a substantial exposure of liability to the County and Towns. For that reason the Town attorneys and I are in agreement that direct connections to the system should not be provided by the County or Towns.

NCGS 153A-376 authorizes counties to engage in health and welfare programs for the benefit of low and moderate income persons. Pursuant to this authority a program could be established whereby grants or loans are issued to persons who meet designated criteria to assist those persons with paying the costs of connecting to a water or sewer system. The qualifying criteria would apply county-wide and could not be limited to residents of the Neighborhood. So if an individual with access to a sewer line in Efland or Mebane met the criteria they also could participate in the program. A program of this nature would not work to connect every home to a sewer system but it would be legally defensible.

#### **CONSTRUCTION AND OPERATIONS OF A NEIGHBORHOOD COMMUNITY CENTER**

The current proposal appears to be that the County and/or Towns pay Habitat for Humanity ("Habitat") approximately \$650,000 to construct a community center ("Center") in the Neighborhood that, once constructed, Habitat would contract with the Rogers Eubanks Neighborhood Association to operate, and the County would help fund through some master lease agreement. The Town attorneys and I concur that this method of funding the Center is not legally defensible.

One method the Town attorneys and I are in agreement on is for Habitat to donate the land for the Center or lease the land to the County, the County could then, through the bidding process, bid out construction of the facility and enter into various agreements for the operation of the Center. We also agree there may be several other options for getting the Center constructed and operating.

Another method that occurred to me after my meeting with the other attorneys is the possibility of a community development grant or loan. Just as with the sewer connection program discussed above through NCGS 153A-376 counties have authority to issue grants and loans. Those grants and loans may be made for the restoration or preservation of older neighborhoods. Counties may contract with corporations for carrying out this restoration or preservation of older neighborhoods and such contracts may be for the purpose of providing recreation facilities. As it relates to the construction of the facility I believe the NC bidding statutes would still apply. Should this option be given consideration additional research would be needed to fully determine the process whereby it is accomplished.

Regardless of the manner in which the Center is funded it must be open to the general public.

**Appendix B****Historic Rogers Road Neighborhood Task Force Report****December 6, 2012****Prepared by the Historic Rogers Road Neighborhood Task Force**

## TABLE OF CONTENTS

<b><i>Introduction</i></b>	1
Charge of the Historic Rogers Road Neighborhood Task Force	2
Boundaries of the Historic Rogers Road Neighborhood	3
<b><i>Sewer Service</i></b>	3
Assessment of Septic System Service in Rogers Road Neighborhood	4
OWASA Sewer Concept Plan	4
Grant Opportunities for Sewer Infrastructure	7
<b><i>Neighborhood Community Center</i></b>	9
Hogan-Rogers House	9
Construction of a New Facility	10
<b><i>Financial Impact and Costs Sharing Options</i></b>	11
<b><i>Recommendations to the Assembly of Governments</i></b>	14

### APPENDICES

- A. Report of the Rogers-Eubanks Area Survey Well and Septic System Assessment
- B. Hogan-Rogers House Preservation Project
- C. Habitat for Humanity Letter Dated May 14, 2012



## INTRODUCTION

In 1972, the north side of Eubanks Road became the site of a solid waste landfill operated by the Town of Chapel Hill. Orange County assumed operational control of the landfill as the result of an August 17, 1999 agreement between the Towns (Chapel Hill, Carrboro, and Hillsborough) and the County. The Historic Rogers Road Community has lived with this landfill for 40 years. Over many years, residents representing the Rogers Road area have voiced concerns about various operational elements associated with the landfill and the impact on the Rogers Road Neighborhood. The Neighborhood is geographically split by the Orange County and Carrboro. Orange County, as the current owner of the landfill, is taking the lead to make remediation improvement to the Historic Rogers Road Community.

A number of local government initiatives have been implemented to improve the quality of life in the Rogers Road Community and they are as follows:

1. The Solid Waste Fund paid \$650,000 to extend public water service by the Orange Water and Sewer Authority (OWASA) to the Rogers Road area.
2. Solid Waste installed gas flares to reduce odors.
3. The Town of Chapel Hill initiated bus service on Rogers Road.
4. Orange County initiated a no-fault well policy to deal with failing drinking water wells remaining in the adjoining neighborhoods.
5. Orange County approved the appropriation of \$750,000 from the Solid Waste Fund Balance to establish a Rogers Road Remediation Reserve Fund.
6. On July 1, 2011 Orange County established a \$5.00 tipping fee surcharge and a plan to incrementally increase the tipping fee each fiscal year by a minimum \$2 per ton as long as the landfill is operational to fund the Rogers Road Remediation Reserve Fund.
7. A partnership with Orange County and the University of North Carolina created a Landfill Gas to Energy Project that commenced operation on January 6, 2012 and will have an immediate and noticeable impact on the odor created by the operation of the landfill. The project will further provide a long-term renewable energy source to UNC, reducing dependence on increasingly expensive fossil fuels, and reduce carbon emissions.
8. On October 4, 2011 the Orange County Board of County Commissioners authorized staff to proceed with a "one-time" effort to clean-up illegal dump sites within three-fourths of one mile of the landfill boundary, at no cost to the individual property owners.

At the January 26, 2012 Assembly of Governments meeting, the Orange County Board of Commissioners and the Town Boards discussed the extension of sewer service and a community center for the Rogers Road Community. County and Town Attorneys have concluded that use of Solid Waste reserves to extend sewer service to the Rogers Road Community is not consistent with North Carolina General Statutes and would subject the local governments to legal challenges. As such, a community center does not have a relationship to Solid Waste and could not be funded from Solid Waste reserves.

Therefore, funding for either the extension of sewer services and/or a community center will have to come from the County's and Towns' other general revenue sources. There was also significant discussion on January 26 regarding the creation of a task force to address the issues.

On February 21, 2012 the Orange County Board of Commissioners authorized the creation of a new Historic Rogers Road Task Force to address sewer service and a community center. The composition of the Task Force was to include two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA).

**Appointed Task Force Members:**

David Caldwell:	RENA
Robert Campbell:	RENA
Valerie Foushee:	Orange County
Pam Hemminger:	Orange County
Michelle Johnson:	Carrboro
Sammy Slade:	Carrboro
Penny Rich:	Chapel Hill
James Ward:	Chapel Hill

**Charge of the Historic Rogers Road Neighborhood Task Force:**

The Charge for the Historic Rogers Road Neighborhood Task Force is to investigate and make recommendations to the Board of County Commissioners, the Chapel Hill Town Council and the Carrboro Board of Aldermen for neighborhood improvements including funding sources and the financial impact to the County & Towns, for the following:

1. Sewer Service to the Historic Rogers Road Neighborhood as defined by the previously approved public water connections in the area.
2. A Neighborhood Community Center.

The Task force is also directed to:

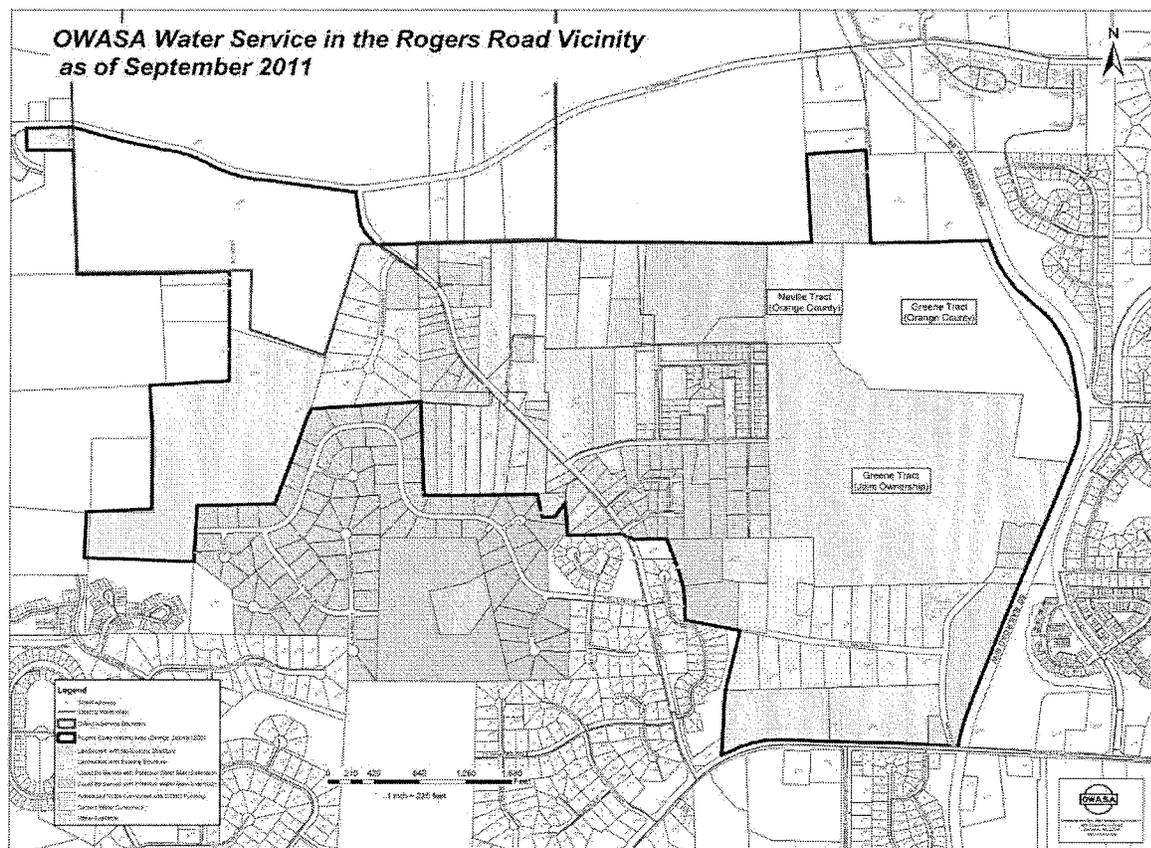
- a. Submit an Interim Report back to the County and the Towns by the end of August, 2012 and;
- b. Submit a Final Report to the Assembly of Governments on December 6, 2012.

Approved by the Board of County Commissioners on February 21, 2012

## Boundaries of the Historic Rogers Road Neighborhood:

For the purposes of the Historic Rogers Road Neighborhood Task Force, the Neighborhood will be defined as the area identified by the September, 2011 map identifying available water service and approved for water service improvements by the Orange County Board of Commissioners on October 4, 2011. **See below, Exhibit 1, OWASA Water Service in Rogers Road Vicinity as of September, 2011 Map.**

### Exhibit 1



## SEWER SERVICE

The first task of the Historic Rogers Road Neighborhood Task Force is to investigate the possibility of providing sewer service to the Historic Rogers Road Neighborhood as defined by the previously approved public water connections in the area.

### Assessment of Septic System Service in the Rogers Road Neighborhood:

The County completed a survey of the Rogers Road Neighborhood in February, 2010. **See Appendix A.** The Orange County Health Department, along with RENA, the UNC School of Public Health, and Engineers Without Borders, participated in a survey of

wells and septic systems. There were forty-five (45) septic systems included in the survey, and twelve (12) were failing at that time. Of the twelve malfunctioning septic systems, seven (7) were further classified as maintenance-related failures, while five (5) were found to be end-of-life failures. Further investigation revealed that for the five end-of-life failures, there was no suitable soil for an on-site repair.

The Environmental Health Division of the Health Department revisited the five properties and discovered that two of the properties are vacant, two are seasonal failures, and one has had patchwork done on it, but not a long-term solution. All of the five septic systems identified would benefit from the installation of a public sewer system.

In 2011, Orange County received \$75,000 in Community Development Block Grant (CDBG) funds for the infrastructure hookups in the Rogers Road Neighborhood. In order to receive connection, the homes had to be close enough to an existing water and/or sewer line so that no extension of service lines would be required for connection. Additionally, homeowners had to meet certain income eligibility requirements. There have been five homes connected to Orange Water and Sewer Authority (OWASA) sewer as a result of this grant.

#### **OWASA Sewer Concept Plan:**

OWASA is the water & sewer utility for the area and as such, it investigated the concept of providing sewer service as part of the Town of Chapel Hill's Rogers Road Small Area Plan. On February 8, 2011 OWASA provided an updated concept plan and cost estimate, for the Rogers Road Small Area Plan Study Area for \$3.4 million. This early concept plan was completed based on the Chapel Hill Small Area Plan which is a geographically different area than the Historic Rogers Road Neighborhood sewer concept. There is also some difference in routing some of the main outfalls. In the current estimate, OWASA needed to avoid the area of contamination coming out from the Carrboro section that required more line with deeper excavation. Most importantly, in the earlier estimates neither the availabilities fees were included nor cost of extending a lateral from the main line to the properties.

OWASA provided a concept plan, layout, and cost estimate for providing sewer service to the area that was delineated by the Rogers Road Neighborhood Task Force at the April 30, 2012 meeting. The concept plan is the most efficient way to serve the defined Rogers Road Neighborhood and does not consider adjoining neighborhoods. **See below, Exhibit 2, the Historic Rogers Road Area Sewer Concept May, 2012 Map.** All the green areas show where sewer service is already available. The dark green areas are parcels that have connected to the OWASA service. The light green areas



for possible rock. The topography of the neighborhood is complex and the land falls in several different directions. This concept plan does not include the costs of any property acquisitions or easement acquisitions. The availability hookup charge for each of the parcels is based on an assumed average house size of 2,500 square feet. When a customer connects to the OWASA water and sewer system, there is a one-time fee that is estimated to be \$4,300 per parcel for the concept plan.

Cost estimate Summary:

Engineering , Design and Permitting	376,350
Construction Cost	3,763,506
Construction Administration	188,175
Construction Inspection	188,175
20% Contingency	903,241
Sub Total	5,419,447
Service Availability Fees	368,768
Total	5,788,215

The concept does not include the cost to actually connect individual homes to the sewer system. Those costs will vary depending on the configuration of the lot and the distance from the house to the main sewer line. Those costs are typically the costs of the homeowner and are estimated to be about \$20/foot. The connections to an individual house would be provided by a private plumbing contractor.

### **Grant Opportunities for Sewer Infrastructure:**

The Task Force explored several grant opportunities to fund the sewer improvement for the Rogers Road Neighborhood. The Task Force was furnished a list of possible grant opportunities from RENA including the following:

- Community Development Block Grants
- Department of Health and Human Services
- Department of Housing and Urban Development
- Environmental Protection Agency
- Federal Highway Funds
- Clean Water Trust Fund
- Bernard Allen Fund

These are mostly federal grant opportunities which are administered through the State. After reviewing all of the grant opportunities the Task Force was able to identify only two possible grants to fund sewer infrastructure, a Community Development Block Grant or a Clean Water Trust Fund Grant.

### ***Community Development Block Grant***

Orange County has to access Community Development Block Grant (CDBG) dollars through the State of North Carolina. That is a competitive process. Within the CDBG grant program, there is a category known as "Infrastructure Program". In that category, funding is available up to \$1 million to communities that have infrastructure needs. The operative word is "need". To access those funds, because they are competitive, any application will have to be able to demonstrate need. Another issue is that the State has focused on water projects, which it considers to be a priority over sewer. Where it does fund sewer projects there has to be a demonstrated need for connection to a public sewer system. Someone would have to document that need in the community. The State primarily looks to the local environmental health department to make that assessment. When talking about sewer projects, normally there is some documentation of a major problem such as with failing septic systems.

To qualify to compete for CDBG funds, a letter of interest will be due in early February 2013. The letter must include the engineering report and project documentation defining the needs of the community. That letter, along with a list of committed local government funding sources to complete the project, are necessary before submitting the CDBG application. The amount of local government matching funds required varies from county to county. The CDBG process evaluates the local government's perceived

ability to pay. A low-wealth county would have a lower ability to pay versus what the state perceives to be a high-wealth county. The county's employment rate and the per capita income are important components in a highly competitive grant process. However, early information from CDBG for the coming grant year is that individual grants of up to \$750,000 dollars may be available.

Last year, Orange County applied for and received funds for individual residential hookups in the Rogers Road Neighborhood (\$75,000). Since that time, some water and sewer connections were completed, but the County was able to do that only because water and sewer infrastructure was already in place. There were a few houses in the community that were adjacent to existing water or sewer lines that were connected, and the occupants were low-income. (They had an income of less than 50% of area median income). It will be difficult for Orange County to compete for these resources; resources will depend on the completion in any given year and the pool of funding available funds. All other things equal, Orange County would have difficulty competing with other areas because the County is considered a wealthy county and is not economically distressed.

To qualify today, the families or individuals that live in this area have to meet an income standard which is 50% of the median family income. (For example: the median annual income for a family of four is around \$64,000, so to qualify a family in this area would have to have an annual income of no more than \$32,000). The County has basically funded most of the individuals that meet that standard, and have already connected them to water and sewer. Finding additional property owners that meet that income cutoff would be difficult. There are not that many home owners in the Rogers Road Neighborhood that are going to meet that income qualification.

The Task Force is looking at a total project cost of \$5.8 million. A CDBG could cover roughly twelve percent of the total estimated costs. The CDBG of \$750,000 will require 5% matching funds of \$37,500. In the community development criteria, the areas that CDBG's are willing to fund are water first and sewer second. A CDBG is much more inclined to fund a collaborative effort between units of local government, such as this project. This collaboration would have a higher priority than any one government acting independently. There are some pre-grant application costs that would be incurred on the front end of the process. The Task Force is searching for local funding of \$5 million even if the project could qualify for a CDBG.

***Clean Water Trust Fund Grant:***

The North Carolina General Assembly has expressed an interest in funding more water and sewer projects, and has designated \$17 million for infrastructure projects. The maximum grant amount per project is \$750,000. There will likely be some consideration to raising that limit for future years because most projects cost a million dollars or more, although this year it remains at \$750,000. The priorities will be for projects that have the severest need. The State looks at percent of low/moderate income benefit in a project area; with the minimum benefit being 70%. At least 70% of the residents in any designated area must be low or moderate income. The residents living in the Rogers Road Neighborhood that need public sewer service will not likely meet the income requirements to qualify for this grant.

***Dedicated Federal Funding:***

Congressman David Price's office has been contacted about a possible Economic Development Incentive (EDI) grant or a Stag Grant. Orange County utilized such a grant for the Efland sewer project. Several years ago, the County was eligible to apply for \$500,000 dollars or more through that type of process. At this time, however, the rules have changed and EDI grants are not allowing for infrastructure projects. These grants can no longer be earmarked for a specific project, which was done for the Efland sewer project.

**NEIGHBORHOOD COMMUNITY CENTER:**

The second task of the Historic Rogers Road Neighborhood Task Force is to investigate the possibility of providing a Neighborhood Community Center to the Historic Rogers Road Neighborhood.

**Hogan-Rogers House:**

The Preservation Society of Chapel Hill compiled a report telling the story of the historic Hogan-Rogers House as a potential Neighborhood Community Center for the Historic Rogers Road Neighborhood.

The St. Paul A.M.E. Church has purchased the Hogan-Rogers House and property surrounding it in order to build a new church complex on the site. Plans call for demolition of this historic house in late 2012. The Preservation Society began working with the Rogers-Eubanks Neighborhood Association, St. Paul Church, and Habitat for Humanity to relocate and restore this home that holds over 170 years of history for Chapel Hill's white and black community. Currently, the house is listed on the North Carolina State Historic Preservation survey conducted in 1999. Habitat for Humanity has graciously donated two lots to relocate the home, but funding for the home's

relocation and restoration is dependent on funds allocated to the Rogers Road Neighborhood as part of the overall remediation plan.

Blake Moving Company, Inc. presented an estimate of \$740,499 to relocate the Hogan-Rogers home to Purefoy Drive. Habitat has determined that the first two lots in the Phoenix Place subdivision, which are at the corner of Purefoy Drive and Edgar Street, would be the best site for the relocation of the structure. Blake presented examples of historical structures that the company has successfully moved.

Blake's assessment of the historic home is that the structure is sound, some repairs need to be made after it is moved, and there will not be any issues with the relocation of the home. An architect/engineer will have to be engaged to design the foundation of the relocated structure and remodeling of the interior of the home.

St. Paul A.M.E. Church is completing the permitting and compliance phase of the project and anticipates getting through that process by late fall. The Church will go through the bidding process to select a site work contractor probably in late August/early September. The site work would start the latter part of the year depending on the weather. The phasing for building and construction for the buildings will not start until the first of the next year.

The Church will work with the Rogers Road Neighborhood to relocate the Hogan-Rogers House. Gloria Shealy, Project Manager has requested a timeline to relocate to the adjacent site. Because the Church is anxious to begin construction as soon as possible, time is of the essence to relocate the Hogan-Rogers House.

#### **Construction of a New Facility:**

If it is not feasible or practicable to move and restore the Hogan-Rogers House, the Historic Rogers Road Neighborhood Task Force is investigating the possibility of constructing a new Community Center on the two lots donated by Habitat for Humanity. Habitat will support the construction of a new facility if the facility is used as a center for neighborhood programs and activities. The donated site could support a facility of up to 4,000 Sq. Ft. with an estimated construction budget of \$750,000. Habitat's support for the community center will be contingent on a commitment of funding allocated to the Rogers Road Neighborhood to complete the project.

A proposed community center must meet NC State Building Code and obtain a Building Permit. The Town of Chapel Hill advises consulting an architect/design professional on the cost and specific code requirements. In addition, the site layout must receive zoning approval and meet the Chapel Hill Land Use Management Ordinance requirements regarding site layout and process.

## **FINANCIAL IMPACT AND COSTS SHARING OPTIONS**

The Task Force has consensus that there are needs in the Rogers Road Neighborhood that should be addressed by the Task Force. The Task Force has investigated two possible solutions in the Rogers Road Community and the estimated costs are as follows:

### ***Installing sewer infrastructure for 86 defined parcels in the Rogers Road Neighborhood***

**\$ 5,788,215**

### ***Estimated Cost to construct a new 4,000 sq. ft. Neighborhood Community Center***

**\$ 700,000**

**Total Financial Impact                    \$6,488,215**

The Task Force initially investigated and evaluated five different cost sharing options for the Rogers Road Neighborhood as outlined below:

1. The first option is based on the Municipal Solid Waste (tonnage) delivered to the Landfill by each municipality during Fiscal 2010/11.
2. The second option is based on the original Landfill Agreement between the Towns and the County dated November 30, 1972.
3. The third possible solution is based on County and Town populations. This is the method the Board of County Commissioners has selected to distribute Sales Tax revenues between the County and the Towns.
4. The fourth option is based on County and Town Ad Valorem Property Taxes Levied by each municipality for Fiscal 2011/12. This is an alternative method the Board of County Commissioners could consider to distribute Sales Tax revenues between the County and the Towns.
5. The fifth possible solution is based on County and Town populations. This method is not weighted.

**See the Spreadsheet Below:**

Rogers Road Neighborhood Task Force  
Cost Sharing Options  
8/22/2012

1 Fiscal 2010/11 MSW Volume			2 1972 Landfill Agreement	
	Tons/Yr.	Percent	Annual Payment	Percent
Carrboro	6,650	19%	\$ 29,524	14%
Chapel Hill	15,008	42%	\$ 90,549	43%
Hillsborough	3185	9%		
Orange County	<u>10,497</u>	<u>30%</u>	<u>\$ 90,549</u>	<u>43%</u>
<b>Total</b>	<b>35,340</b>	<b>100%</b>	<b>\$ 210,622</b>	<b>100%</b>

3 County Population Est. Sales Tax Distribution Method			4 Fiscal 2012/13 Ad Valorem Property Tax	
	Population	Percent	Property Tax Levy	Percent
Carrboro	19,665	9%	11,611,958	5%
Chapel Hill Special Districts	54,582	25%	34,116,234 235,387	16% 0%
Durham	30	0%	49,416	0%
Hillsborough	6,113	3%	4,705,799	2%
Mebane	1,801	1%	1,114,495	1%
Orange County School District Fire Districts	134,325 - -	62% - -	136,382,728 19,260,309 <u>3,979,116</u>	64% 9% <u>2%</u>
<b>Total</b>	<b>216,516</b>	<b>100%</b>	<b>211,455,442</b>	<b>100%</b>

5 County Population Est. Fiscal 2012/13		
	Population	Percent
Carrboro	19,665	15%
Chapel Hill	54,582	41%
Durham	30	0%
Hillsborough	6,113	5%
Mebane	1,801	1%
Orange County	<u>52,134</u>	<u>39%</u>
<b>Total</b>	<b>134,325</b>	<b>100%</b>

6. The Town of Carrboro presented an alternative costs share option based on equal weights for Municipal Solid Waste and Population.

**See the Spreadsheet Below:**

<b>MSW Volume</b>		
Carrboro	6,650	19%
Chapel Hill	15,008	42%
Hillsborough	3,185	9%
Orange County	10,497	30%
<b>Total</b>	<b>35340</b>	<b>100%</b>

<b>Population for Sales Tax Distribution</b>		
Carrboro	19,665	9%
Chapel Hill	54,582	25%
Durham	30	0%
Hillsborough	6,113	3%
Mebane	1,801	1%
Total Incorporated	82,191	
Total County	134,325	62%
<b>Sales Tax Population</b>	<b>216,516</b>	

<b>Ad Valorem Value</b>		
Carrboro	\$ 11,611,958	5%
Chapel Hill	\$ 34,116,234	16%
CH Special District	\$ 235,387	0%
Durham	\$ 49,416	0%
Hillsborough	\$ 4,705,799	2%
Mebane	\$ 1,114,495	1%
Orange County	\$ 136,382,728	64%
CH-C School District	\$ 19,260,309	9%
Fire Districts	\$ 3,979,116	2%
<b>Total Ad Valorem</b>	<b>\$ 211,455,442</b>	<b>100%</b>

<b>Weight Assumption</b>	
MSW Input (Responsibility)	0.5
Sales Tax Revenue (Population)	0.5
Ad Valorem Value (Ability to Pay)	

<b>Cost Distribution</b>	<b>Normalized</b>	
Carrboro	13.95%	14.06%
Chapel Hill	33.84%	33.94%
Hillsborough	5.92%	6.02%
Orange County	45.87%	45.98%
	99.58%	100.00%

Cost of Sewer Project	\$ 5,788,215
Community Center	\$ 500,000
Carrboro	\$ 883,843
Chapel Hill	\$ 2,134,475
Hillsborough	\$ 378,777
Orange County	\$ 2,891,120

**Carrboro  
Cost Sharing Option**

## RECOMMENDATIONS TO THE ASSEMBLY OF GOVERNMENTS

### **Historic Rogers Road Neighborhood Task Force December 6, 2012**

#### **Recommendations:**

1. That the costs of both a New Community Center and Sewer Improvements be shared by the local governments, at the same costs sharing percentages as outlined in the 1972 Landfill Agreement, 43% for Orange County, 43% for The Town of Chapel Hill and 14% for The Town of Carrboro.
2. That the Managers and Attorneys originate a Memorandum of Understanding between Habitat, Orange County, the Town of Carrboro, and the Town of Chapel Hill for the construction of a new Rogers Road Community Center. The budget will not exceed \$700,000 and the project will be bid in compliance with North Carolina public bidding requirements. Orange County will finance the project with reimbursement from the Towns as outlined in (1) above.
3. That the governing boards continue to appropriate funds, as previously budgeted, to reimburse the Solid Waste fund for the purchase of the Greene Tract, for both a New Community Center and Sewer Improvements. Funds budgeted in Fiscal 2012/2013 for the Greene Tract are as follows; \$90,549 for Orange County, \$90,549 for The Town of Chapel Hill and \$29,524 for The Town of Carrboro. The governing boards are also encouraged to locate other funding sources for a New Community Center and Sewer Improvements.
4. That the Hogan-Rogers House no longer be considered as an option for a Neighborhood Community Center. The St Paul's AME Church is working with the Chapel Hill Preservation Society to save the structure.
5. That the Task Force continue to meet, to address the Charge of the Task Force, for an additional 6 months with the original composition of the Task Force. The composition of the Task Force originally included two members appointed by each Town (Chapel Hill and Carrboro); two members appointed from the County; and two members appointed from Rogers Eubanks Neighborhood Association (RENA).

**Recommendations, Never Finalized:****Rogers Road Neighborhood Community Center:**

That the County create Memorandum of Understanding for the operations of the Community Center with the County, Habitat, and the Rogers Eubanks Neighborhood Association all being a party to the agreement. The agreement shall provide for the operation & maintenance of a new Rogers Road Neighborhood Community Center including services, programs & activities to be provided in the Center.

**County Sewer District:**

1. That the Managers explore the creation of a County Sewer District for all property owners in the Historic Rogers Road Neighborhood that are not currently served by a municipal sewer system and would benefit from the installation of sewer infrastructure to serve the Rogers Road Neighborhood.
  - a. That the towns participate with the possible creation of a County Sewer District, which could overlap town boundaries.
  - b. That a County Sewer District would make special assessments against benefited property within the district to cover the costs of constructing, extending or improving sewage disposal system. The basis of any special assessment would be determined at a later date after investigating development potential and the number of possible dwelling units. A special assessment would share the costs of the sewer system with current benefited property (homeowners) and undeveloped land for future development.
  - c. That the Managers work with the Attorneys to create criteria that would enable homeowners, that have lived in the Historic Rogers Road Neighborhood before 1972, to connect from the sewer system free of charge and recommend a sliding scale fee structure for homeowners that moved to the Neighborhood between 1972 and 2012.

## Appendix C

### MEMORANDUM

**TO:** Chapel Hill, Carrboro and Orange County Elected Officials  
**FROM:** Chapel Hill, Carrboro and Orange County Managers  
**SUBJECT:** Collaborative Approach to Rogers Road  
**DATE:** February 25, 2013

### PURPOSE

The purpose of this memorandum is to describe the collaborative approach the Managers of Chapel Hill, Carrboro and Orange County are pursuing to ensure an inclusive process for determining how best to address the identified needs of the Rogers Road area, particularly those related to the extension of water and sewer service and the potential creation of a utilities service district.

### BACKGROUND

As stated in a memo to the Orange County BOCC dated January 24, 2013:

“Sewer service to the Historic Rogers Road Neighborhood, as defined by the previously approved public water connections in the area, has proven to be an expensive and complicated issue to resolve. The creation of a County Sewer District for all property owners in the Historic Rogers Road Neighborhood that are not currently served by a municipal sewer system is being investigated. Participation by the Towns in a Sewer District located outside of the Towns jurisdictions presents legal challenges for both the Town of Chapel Hill and Town of Carrboro. The Orange Water and Sewer Authority (OWASA) could be the service provider for the creation of a County Sewer District. Contract terms and policy standards for governmental projects would have to be discussed before a Sewer District could be established.”

To that end, the Managers of Chapel Hill, Carrboro and Orange County have held meetings with their key staffs and each other to discuss these issues and address them collaboratively. The Managers have also met with leaders from other local organizations to develop strategic partnerships as we move forward in the decision making process.

### DISCUSSION

Planning staff from the Towns of Chapel Hill and Carrboro met several times in late 2012 and early 2013 to share information on the area in order to gain a better understanding of the potential for development of the jointly-owned public land in the area, including options for water and sewer extensions. The Planning staffs then met with the Managers to present their findings and discuss some options for moving forward, including creation of a utilities service district.

During the same time period, the Managers identified other potential stakeholder organizations and met with their leadership independently to discuss prospects for strategic partnerships moving forward. These organizations included OWASA, Chapel Hill-Carrboro City Schools, Self-Help Credit Union and the Jackson Center.

**OWASA** was identified because of their role as water and sewer service provider, and for their assistance in developing a business model to establish a utilities service district. OWASA is envisioned as a contract service provider in the establishment of the district. Eventually the infrastructure would become part of OWASA's system and managed directly by them.

**Chapel Hill-Carrboro City Schools** was identified as strategic partner in light of their plans to build a new school in the vicinity of the Roger Road area, which will be a major component of how the area is developed in the future. The school administration has an interest in partnering with the other local governments to integrate the planning for the school with our planning for the community.

**Self-Help Credit Union** has been a critical partner in the Town's efforts to think differently about the Northside neighborhood. Because of the direct and indirect connections between the two neighborhoods, they are interested in partnering in this effort to seek ways to maximize the publicly-owned land into new solutions for community space and infrastructure.

**The Jackson Center** has used its community-building experience in Chapel Hill's Northside Neighborhood to make a difference in the communications with landowners in the area. They are also attracted by the historical connections between the Rogers Road community and Northside.

The Managers plan to continue meeting regularly with each other to share information and strategize how best to address the water and sewer needs of the Rogers Road area and community. We will also continue to work with the identified strategic partners to ensure an inclusive and innovative process moving forward.

### **RECOMMENDATION**

That the Town of Chapel Hill Council, Town of Carrboro Board of Alderman and Orange County Board of Commissioners receive this memorandum, jointly drafted by their Managers.

## Appendix D

### Part 5. Community Development.

#### § 153A-376. Community development programs and activities.

(a) Any county is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a county may engage in the following activities:

- (1) Programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low and moderate income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans;
- (2) Programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) Any board of county commissioners may exercise directly those powers granted by law to county redevelopment commissions and those powers granted by law to county housing authorities. Any board of county commissioners desiring to do so may delegate to redevelopment commission or to any housing authority the responsibility of undertaking or carrying out any specified community development activities. Any board of county commissioners and any municipal governing body may by agreement undertake or carry out for each other any specified community development activities. Any board of county commissioners may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education, may by agreement undertake or carry out for any board of county commissioners any specified community development activities.

(c) Any board of county commissioners undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) Any board of county commissioners proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such county.

(e) No state or local taxes shall be appropriated or expended by a county pursuant to this section for any purpose not expressly authorized by G.S. 153A-149, unless the same is first submitted to a vote of the people as therein provided.

(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient "economically distressed counties", as defined in G.S. 143B-437.01 for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by counties of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the county shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration.

(g) Any county may receive and dispense funds from the Community Development Block Grant Section 108 Loan Guarantee program, Subpart M, 24 CFR 570.700 et seq., either through application to

the North Carolina Department of Commerce or directly from the federal government, in accordance with State and federal laws governing these funds. Any county that receives these funds directly from the federal government may pledge current and future CDBG funds for use as loan guarantees in accordance with State and federal laws governing these funds. A county may implement the receipt, dispensing, and pledging of CDBG funds under this subsection by borrowing CDBG funds and lending all or a portion of those funds to a third party in accordance with applicable laws governing the CDBG program.

Any county that has pledged current or future CDBG funds for use as loan guarantees prior to the enactment of this subsection is authorized to have taken such action. A pledge of future CDBG funds under this subsection is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subsection does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes. (1975, c. 435, s. 2; c. 689, s. 2; 1987 (Reg. Sess., 1988), c. 992, s. 1; 1995, c. 310, s. 2; 1995 (Reg. Sess., 1996), c. 575, s. 2; 1996, 2nd Ex. Sess., c. 13, s. 3.8; 2006-259, s. 27(a).)

## Part 8. Miscellaneous Powers.

**§ 160A-456. Community development programs and activities.**

(a) Any city is authorized to engage in, to accept federal and State grants and loans for, and to appropriate and expend funds for community development programs and activities. In undertaking community development programs and activities, in addition to other authority granted by law, a city may engage in the following activities:

- (1) Programs of assistance and financing of rehabilitation of private buildings principally for the benefit of low and moderate income persons, or for the restoration or preservation of older neighborhoods or properties, including direct repair, the making of grants or loans, the subsidization of interest payments on loans, and the guaranty of loans;
- (2) Programs concerned with employment, economic development, crime prevention, child care, health, drug abuse, education, and welfare needs of persons of low and moderate income.

(b) Any city council may exercise directly those powers granted by law to municipal redevelopment commissions and those powers granted by law to municipal housing authorities, and may do so whether or not a redevelopment commission or housing authority is in existence in such city. Any city council desiring to do so may delegate to any redevelopment commission or to any housing authority the responsibility of undertaking or carrying out any specified community development activities. Any city council and any board of county commissioners may by agreement undertake or carry out for each other any specified community development activities. Any city council may contract with any person, association, or corporation in undertaking any specified community development activities. Any county or city board of health, county board of social services, or county or city board of education, may by agreement undertake or carry out for any city council any specified community development activities.

(c) Any city council undertaking community development programs or activities may create one or more advisory committees to advise it and to make recommendations concerning such programs or activities.

(d) Any city council proposing to undertake any loan guaranty or similar program for rehabilitation of private buildings is authorized to submit to its voters the question whether such program shall be undertaken, such referendum to be conducted pursuant to the general and local laws applicable to special elections in such city.

(d1) Any city may receive and dispense funds from the Community Development Block Grant Section 108 Loan Guarantee program, Subpart M, 24 CFR 570.700 et seq., either through application to the North Carolina Department of Commerce or directly from the federal government, in accordance with State and federal laws governing these funds. Any city that receives these funds directly from the federal government may pledge current and future CDBG funds for use as loan guarantees in accordance with State and federal laws governing these funds. A city may implement the receipt, dispensing, and pledging of CDBG funds under this subsection by borrowing CDBG funds and lending all or a portion of those funds to a third party in accordance with applicable laws governing the CDBG program.

Any city that has pledged current or future CDBG funds for use as loan guarantees prior to the enactment of this subsection is authorized to have taken such action. A pledge of future CDBG funds under this subsection is not a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or any political subdivision of the State. The pledging of future CDBG funds under this subsection does not directly, indirectly, or contingently obligate the State or any political subdivision of the State to levy or to pledge any taxes.

(e) Repealed by Session Laws 1985, c. 665, s. 5.

(e1) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities in "economically distressed counties", as defined in G.S. 143B-437.01, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities

Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration. (1975, c. 435, s. 1; c. 689, s. 1; c. 879, s. 46; 1983, c. 908, s. 4; 1985, c. 665, s. 5; 1987, c. 464, s. 10; 1987 (Reg. Sess., 1988), c. 992, s. 2; 1995, c. 310, s. 3; 1995 (Reg. Sess., 1996), c. 13, s. 3.9; c. 575, s. 3; 2006-259, s. 27(b).)

## Appendix E

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF ORANGE

THIS LEASE AGREEMENT ("Lease"), made and entered into as of the last date set forth in the notary acknowledgments below (the "Effective Date"), by and between HABITAT FOR HUMANITY, ORANGE COUNTY, N.C., INC., a nonprofit corporation registered in North Carolina, hereinafter referred to as "Lessor" and ORANGE COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as "Lessee." Lessor and Lessee are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

### WITNESSETH:

WHEREAS, the board of directors of Habitat for Humanity, Orange County NC, Incorporated ("Habitat") has authorized and approved the execution of this Lease for the purposes herein specified; and

WHEREAS, the execution of this Lease for and on behalf of Lessor has been duly approved by Habitat at a meeting held in the City of \_\_\_\_\_ North Carolina, on the \_\_\_\_ day of \_\_\_\_\_, 2013; and

WHEREAS, the Parties have mutually agreed to the terms of this Lease as hereinafter set forth.

NOW, THEREFORE, in consideration of the Premises, as described herein, and the promises and covenants contained in the terms and conditions hereinafter set forth, Lessor does hereby rent, lease and demise unto Lessee, for and during the term and under the terms and conditions hereinafter set forth, that certain Premises, with all rights, privileges and appurtenances thereto belonging.

### THE TERMS AND CONDITIONS OF THIS LEASE ARE AS FOLLOWS:

1. Premises. The "Premises" shall consist of that certain parcel or tract of land lying and being in the \_\_\_\_\_ Township, Orange County, North Carolina, containing \_\_\_\_ acres, more or less, being more particularly shown and described on Exhibit A, attached hereto and incorporated herein by this reference and having PINs \_\_\_\_\_ and \_\_\_\_\_.
2. Term. The term of this Lease shall commence on the Effective Date, and unless sooner terminated, extended, or renewed as provided herein, shall expire on the twentieth (20<sup>th</sup>) anniversary of the Effective Date at 2400 hours (the "Term").
3. Rent. Lessee shall pay to Lessor as rental for the Premises the sum of ONE DOLLAR (\$1.00) for the Term.

4. Condition of Premises. Lessor agrees to deliver the Premises to Lessee in its present condition. Except as otherwise expressly provided herein, Lessee acknowledges that the Premises is being delivered "as is", that Lessee has performed preliminary investigations and reviews and has concluded on its own judgment that the Premises are suitable for the purposes intended, without any representations or warranties of any kind (including, without limitation, any express or implied warranties of merchantability, fitness or habitability) from Lessor or any agent of Lessor. Lessee's entry into possession shall constitute conclusive evidence that as of the date thereof the Premises were in good order and satisfactory condition. Lessee further acknowledges that this Lease is subordinate to all existing easements and rights of way encumbering the Premises, including any easements benefiting adjacent land owned by Lessor.

5. Use of Premises and Leasehold Improvements. The Premises shall be used by Lessee for the construction, maintenance and operation of a public community and recreation facility together with other accessories and appurtenances related thereto, as said facility is more particularly described in Exhibit B attached hereto and incorporated herein by this reference (said facility and all fixtures, accessories and appurtenances constructed or installed on the Premises in connection therewith are collectively referred to herein as the "Leasehold Improvements"). If Lessee ceases to use the Premises for the purposes herein described or makes other uses of the Premises without the express written consent of Lessor, Lessor may terminate this Lease and reenter and take possession of the Premises.

6. Construction of Leasehold Improvements. The Premises shall be developed and the Leasehold Improvements shall be constructed by Lessee, at its sole cost and expense, in compliance with all the applicable governmental laws and regulations. Construction of the Leasehold Improvements shall be deemed to have commenced when Lessee begins site grading or site preparation. All such Leasehold Improvements shall be and remain the property of Lessee.

7. Maintenance and Repair. During the Term, Lessee, at its sole cost and expense, shall maintain in thorough repair and in good and safe condition the Premises and the Leasehold Improvements. Lessee's maintenance obligations shall include, without limitation, such stormwater system(s) on the Premises as may be required by local or state ordinances and regulations.

8. Utilities. Lessee shall be responsible for all charges, fees and expenses associated with the provision of utilities necessary for its construction and use of the Leasehold Improvements and for its occupancy and possession of the Premises.

9. Insurance and Liability.

9.1 Lessee Insurance. Lessee shall obtain adequate insurance coverage in accordance with all applicable laws for (i) general liability, (ii) automobile liability, and (iv) fire and extended coverage with regard to the Lessee's operations on or about Premises and the Leasehold Improvements located thereon. Lessee shall require any of its contractors or agents entering the Premises to obtain and keep in place with well rated insurers, authorized to do business in the State of North Carolina, adequate insurance coverage, as applicable, for (i) statutory workers' compensation including, employers' liability; (ii) comprehensive general

liability including, personal injury, broad form property damage, independent contractor, XCU (explosion, collapse, underground) and products/completed operations; (iii) automobile liability; and (iv) fire and extended coverage insurance. Evidence of compliance with the insurance requirements set out in this provision shall be provided to Lessor prior to commencement of improvements on the Premises.

9.2 Insurance Requirements. All policies maintained by Lessee shall be purchased only from insurers who are authorized to do business in the State of North Carolina, who comply with the requirements thereof, and who carry an A.M. Best Company rating of "A" or "A+."

9.3 Lessee's Liability. As between Lessee and Lessor, Lessee, subject to the terms of this Lease, shall be primarily liable for the negligent or intentional acts or omissions of its agents, contractors or employees. As to third parties, Lessee agrees to save Lessor harmless from and against any and all loss, damage, claim, demand, liability, or expense, including reasonable attorney fees, by reason of damage to person or property on or about the Premises, which may arise or be claimed to have arisen as a result of the possession, occupation, use or operation of the Premises by Lessee, its agents or employees, except where such loss or damage arises from the willful or negligent misconduct of Lessor, its agents or employees. It is the intent of this section that Lessee shall hold Lessor harmless and indemnify Lessor to the extent allowed under North Carolina law.

10. Casualty. In the event the Premises and the Leasehold Improvements, or a substantial part thereof, shall be damaged by fire or other casualty, Lessee may, at its option, terminate this Lease or cause the Premises and the Leasehold Improvements to be repaired or renovated. If Lessee determines to make the necessary repairs or renovations, any proceeds from fire or casualty insurance shall belong to Lessee. In such event, Lessee, at its sole cost and expense, shall cause the repairs and renovations to be made in a good and workmanlike manner, without unreasonably delay, and in compliance with all applicable governmental laws and regulations and the Approved Plans. If Lessee determines not to make the necessary repairs or renovations, then this Lease shall terminate and Lessee, at Lessor's option, shall cause the Premises to be restored to a condition reasonably approximating that existing at the Effective Date and any proceeds from fire or other casualty insurance, less payment for any permitted indebtedness thereon, payment to Lessee for its personal property located on the Premises and any payment necessary to restore the Premises, shall belong to Lessor. Lessee's determination concerning repair as stated in this Section shall be given to Lessor in writing within ninety (90) days of the fire or casualty causing the damage.

11. Hazardous Materials.

11.1 Definitions. For purposes of this Lease: (i) "Hazardous Material" or "Hazardous Materials" means and includes, without limitation, (a) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, or in any applicable state or local law or regulation, (b) hazardous substances, as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, (d) toxic substances, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute, or regulation may be

amended from time to time; (ii) "Release" shall have the meaning given such term, in Environmental Laws, including, without limitation, CERCLA; and (iii) "Environmental Law" or "Environmental Laws" shall mean "Super Fund" or "Super Lien" law or any other federal, state, or local statute, law, ordinance, or code, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be legally in effect, including, without limitation, the following, as same may be amended or replaced from time to time, and all regulations promulgated and officially adopted thereunder or in connection therewith: Super Fund Amendments and Reauthorization Act of 1986 ("SARA"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"); The Clean Air Act ("CAA"); the Clean Water Act ("CWA"); the Toxic Substance Control Act ("TSCA"); the Solid Waste Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act ("RCRA"); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 ("OSHA"). All obligations and liabilities arising under this Section 14 which arise out of events or actions occurring prior to the expiration or termination of this Lease shall survive the assignment of this Lease and the expiration, termination, cancellation or release of record of this Lease.

11.2 Lessee Not Liable for Hazardous Materials. Lessee shall not be responsible for any damage, loss, or expense resulting from the prior existence on the Premises of any Hazardous Material. Lessee shall be responsible for any damage, loss, or expense resulting from the existence on the Premises of any Hazardous Material generated, stored, disposed of or transported to or over the Premises resulting from Lessee's improvements made to the Premises.

11.3 Lessee's Obligations. Lessee shall give Lessor immediate written notice of any problem, Release, threatened Release or discovery of any Hazardous Materials on or about the Premises or claim thereof. If such problem, Release, threatened Release or discovery was caused by Lessee, its employees, agents, contractors, invitees or licensees, this notice shall include a description of measures taken or proposed to be taken by Lessee to contain and/or remediate the Release of Hazardous Materials and any resultant damage to or impact on property, persons and/or the environment (which term includes, without limitation, soil, surface water or groundwater) on, under or about the Premises. In the event of a Release caused solely by Lessee and at Lessee's own expense, Lessee shall promptly take all steps necessary to clean up or remediate any Release of Hazardous Materials, comply with all Environmental Laws and otherwise report and/or coordinate with Lessor and all appropriate governmental agencies.

11.4 Liability. To the extent allowed by North Carolina law Lessor agrees to save Lessee harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages, judgments, obligations, penalties, injuries, costs, expense (including, without limitation, attorneys' and experts' fees) and claims of any and every kind of whatsoever paid, incurred, suffered by, or asserted against Lessee with respect to, or as a direct or indirect result of the violation of any Environmental Laws applicable to the Premises, to the extent that such violation is caused by the activities of Lessor or any predecessor in interest to Lessor. To the extent allowed by North Carolina law Lessee agrees to save Lessor harmless from and against any and all liens, demands, defenses, suits, proceedings, disbursements, liabilities, losses, litigation, damages, judgments, obligations, penalties, injuries, costs, expense (including, without limitation, attorneys' and experts' fees) and claims of any and

every kind of whatsoever paid, incurred, suffered by, or asserted against Lessor with respect to, or as a direct or indirect result of the violation of any Environmental Laws applicable to the Premises, to the extent that such violation is caused by the activities of Lessee.

12. Waste / Interference. Lessee shall not use the Premises in any manner that will constitute waste.

13. Compliance. Lessee agrees to comply, at Lessee's sole cost and expense, with all governmental laws, rules, ordinances and regulations applicable to the Premises or Lessee's use and occupancy thereof.

14. Liens. Lessee agrees to pay all lawful claims associated with the construction of the Leasehold Improvements on a timely basis and shall save Lessor harmless from and against any and all claims by third parties and contractors arising out of the construction of the Leasehold Improvements. Lessee shall not encumber the Premises with any mortgages or permit any mechanic's, materialman's, contractor's, subcontractor's or other similar lien arising from any work of improvement performed by or on behalf of Lessee, however it may arise, to stand against the Premises. In the event the Premises are encumbered by any such lien, Lessee may in good faith contest the claim underlying such lien

15. Events of Default. The occurrence of any of the following shall constitute a material default and breach of this Lease by Lessee (an "Event of Default"):

15.1 Vacation / Abandonment. Lessee ceases to occupy, abandons or vacates the Premises for the purposes of this Lease before the expiration of the Term.

15.2 Unlawful Purpose. If Lessee allows the Premises to be used for any unlawful purpose.

15.3 Use by Habitat Homeowners. Lessee causes the Premises to be unavailable for the use and enjoyment of Habitat for Humanity Homeowners residing in Orange County, North Carolina, and their families and invitees.

16. Lessor's Remedies. Upon the occurrence of any Event of Default or failure by Lessee to perform any obligation of Lessee under this Lease, which failure is not cured within the specific time periods provided in this Lease or if no specific time period is provided, then within one hundred eighty (180) days after written notice to Lessee (or if such failure cannot be cured within one hundred eighty (180) days, then within a reasonable period of time, provided Lessee proceeds promptly and diligently to cure such breach), whichever occurs first, then Lessor, at its option may (i) terminate Lessee's right to possession of the Premises at any time by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises to Lessor; and/or (ii) pursue any other remedy now or hereafter available to Lessor under North Carolina law.

17. Right of Lessor to Re-Enter. In the event of any termination of this Lease by Lessor or

the enforcement of any other remedy by Lessor under this Lease, Lessor shall have the immediate right to enter upon and repossess the Premises and remove or store Lessee's personal property and Leasehold Improvements in accordance with the terms of Section 19. Lessee hereby waives all claims arising from Lessor's re-entering and taking possession of the Premises and removing and storing the property of Lessee as permitted under this Lease and will save and hold Lessor harmless from all losses, costs or damages occasioned Lessor thereby. No such reentry shall be considered or construed to be a forcible entry by Lessor.

18. Legal Costs. In the event of any breach each Party shall be solely responsible for that Party's own legal costs and expenses including reasonable attorney's fees. .

19. Ownership of Leasehold Improvements; Surrender of Premises. During the Term, ownership of the Leasehold Improvements shall be in Lessee. At the expiration of the Term or the earlier termination of this Lease, Lessee shall promptly quit and surrender the Premises in good order, condition and repair, ordinary wear and tear excepted. The Leasehold Improvements shall remain the property of Lessee for a period of ninety (90) days. The Parties shall work together to remove such Leasehold Improvements from the premises within a reasonable time with such removal being at the sole expense of the Lessee. At the termination of this Lease, Lessee shall remove any and all of Lessee's personal property, trade fixtures and equipment from the Premises. All leasehold improvements and such personal property, trade fixtures and equipment not so removed by Lessee and remaining on the Premises ninety (90) days after the termination of this Lease shall, at Lessor's option, become the property of Lessor or Lessor may have the property removed or stored, at Lessee's expense.

20. Holdover. In the event Lessee remains in possession of the Premises after the expiration of the Term and without an extension, renewal, or the execution of a new lease, Lessee shall occupy the Premises as a tenancy at sufferance subject to all of the conditions of this Lease insofar as consistent with such a tenancy. However, either Party shall give not less than sixty (60) days written notice to terminate the tenancy.

21. Miscellaneous.

21.1 Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the Parties, their successors and permitted assigns.

21.2 Authority. Each person executing this Lease on behalf of Lessee does hereby represent and warrant that that this Lease was duly approved by the governing body of Lessee, that this Lease is the act and deed of Lessee, that Lessee has full lawful right and authority to enter into this Lease and to perform all of its obligations hereunder, and that each person signing this Lease on behalf of Lessee is duly and validly authorized to do so. Each person executing this Lease on behalf of Lessor does hereby represent and warrant that that this Lease was duly approved by the governing body of Lessor, that this Lease is the act and deed of Lessor, that Lessor has full lawful right and authority to enter into this Lease and to perform all of its obligations hereunder, and that each person signing this Lease on behalf of Lessor is duly and validly authorized to do so.

21.3 Relationship Between Parties. Nothing in this Lease shall be construed to render

the Lessor in any way or for any purpose a partner, joint venturer, or associate in any relationship with Lessee other than that of Lessor and Lessee, nor shall this Lease be construed to authorize either to act as agent for the other.

21.4 Applicable Law. This Lease shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of North Carolina, regardless of conflict of law principles.

21.5 Entire Agreement. This instrument contains the entire agreement between the Parties, and no statement, promise, inducement, representation or prior agreement which is not contained in this written Lease shall be valid or binding.

21.6 Amendment. No amendment, modification, alteration, renewal, extension, or revision of this Lease shall be valid and binding unless made in writing and signed by Lessee and Lessor.

21.7 Construction of Language. The terms "lease," "lease agreement" or "agreement" shall be inclusive of each other, and also shall include renewals, extensions, or modifications of this Lease. Words of any gender used in this Lease shall be held to include any other gender, and words of the singular shall be held to include the plural and the plural to include the singular when the sense requires. The section or paragraph headings and the titles are not a part of this Lease and shall have no effect upon the construction and interpretation of any part hereof.

21.8 Terms. Capitalized terms used in this Lease shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

21.9 Effect of Waiver or Forbearance. No covenant or condition of this Lease can be waived except by written consent of the Parties. A waiver of any covenant or condition on one occasion shall not be deemed a waiver of said covenant or condition on any subsequent occasion unless such fact is specifically stated in the waiver. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of any covenant or condition to be performed by Lessee, and until Lessee has completely performed all covenants and conditions of this Lease, Lessor shall be entitled to invoke any remedy available to Lessor under this Lease or any law or equity despite such forbearance or indulgence.

21.10 Survival. All obligations accruing prior to expiration of the term of this Lease shall survive the expiration or other termination of this Lease.

21.11 Lessor's Remedies Cumulative. The rights and remedies of Lessor specified in this Lease shall be cumulative and in addition to any other rights and/or remedies otherwise available, whether or not specified in this Lease.

21.12 Severability. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity,

illegality or unenforceability shall not affect any other provision hereof and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

21.13 Construction. No provision of this Lease shall be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority by reason of such Party's having or being deemed to have prepared or imposed such provision.

21.14 Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

21.15 Renewal. At the option of Lessee this Lease may be renewed for up to four (4) twenty (20) year terms.

21.16 Memorandum of Lease for Recording. At the request of either Party, Lessor and Lessee shall execute a memorandum of this Lease for recording in the public records at the requesting Party's sole cost and expense. The memorandum of Lease shall set forth the Parties, provide a description of the Premises, specify the Term and incorporate this Lease by reference.

21.17 Notices. All notices herein provided to be given, or to which may be given, by either Party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed as follows:

To Lessor:     Habitat for Humanity, Orange County, N.C., Inc.  
                   Attn: Susan Levy, Executive Director  
                   88 Vilcom Center Drive, L110  
                   Chapel Hill, NC 27514

To Lessee:     Orange County  
                   Attn: County Manager  
                   Post Office Box 8181  
                   Hillsborough, NC 27278

The address to which notices shall be mailed as aforesaid to either Party may be changed by written notice.

**[signatures begin on following page]**

IN TESTIMONY WHEREOF, Lessor has caused this instrument to be executed in its name by \_\_\_\_\_, attested by \_\_\_\_\_, and its corporate seal affixed hereto, by authority duly given; and Lessee has caused this instrument to be executed in its name by its Chair of the Board of Commissioners or County Manager, attested, by its Clerk and its County seal hereto affixed by authority duly given, all as of the dates set forth in the notary acknowledgments below.

**LESSEE:**

ORANGE COUNTY

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk (Seal)

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the aforesaid County and State do hereby certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is Clerk of the Orange County and that by authority duly given and as an act of the Orange County, the foregoing instrument was signed by \_\_\_\_\_, its \_\_\_\_\_, attested by himself/herself as Clerk and sealed with the common seal.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

My Commission Expires: \_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_

**LESSOR:**

HABITAT FOR HUMANITY, ORANGE COUNTY, N.C., INC.

By: \_\_\_\_\_  
Director

ATTEST:

\_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF ORANGE

I, \_\_\_\_\_, a Notary Public in and for Orange county and State of North Carolina, do hereby certify that \_\_\_\_\_, personally came before me this day and acknowledged that she is \_\_\_\_\_, and that by authority duly given and as the act of Habitat for Humanity, Orange County, N.C., Inc., the foregoing instrument was signed in its name by \_\_\_\_\_, sealed with the corporate seal, and attested by herself as \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_

**EXHIBIT A**

## Description of Premises

Lying and being in Town of Hillsborough, Orange County, North Carolina and being more particularly described as follows:

**EXHIBIT B**

Leasehold Improvements

## Appendix F

### OPERATIONS AGREEMENT: ROGERS ROAD COMMUNITY CENTER

This Operations Agreement (the "Agreement") for the operation of the community and recreation center at \_\_\_\_\_ (hereinafter the "Center") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2013, between Rogers Eubanks Neighborhood Association, Incorporated, a North Carolina Nonprofit Corporation (hereinafter "RENA") and Orange County (hereinafter the "County") referred to jointly hereafter as "Parties".

The Parties hereby agree as follows:

#### 1. Term

The term of this Agreement shall be from the day and date first recorded above and shall continue for a period of five (5) years. The Agreement may be renewed as provided herein.

#### 2. Use and Operations

##### a) Rena Shall:

- i. Provide a full schedule and updates, as they become available, of all activities and programs at the Center.
- ii. Operate and staff the Center Monday through Friday 10:00 a.m. to 7:00 p.m. and Saturday from 10:00 a.m. to 6:00 p.m.
- iii. Immediately notify County of the closure, delayed opening, or early closing of the Center for any reason.
- iv. Provide quarterly analysis report to Center on enrollment, trends, and timing for RENA class, program, and activity sessions.
- v. Enforce County policies, including but not limited to the no smoking policy, while using and operating the Center.
- vi. Maintain worker's compensation insurance covering its personnel working at the Center.
- vii. Maintain general liability insurance coverage as outlined in Section 4 of this Agreement.
- viii. Appoint a liaison to communicate with the County regarding all matters related to this Agreement.
- ix. Maintain the Center facilities in a clean and orderly state. RENA may arrange furniture as may be needed to provide for the orderly operation of the Center.
- x. At the conclusion of each day clean and restore the Center kitchen, bathrooms, and activity rooms to the same state and condition in which they existed prior to use by RENA's volunteers and employees or the public.
- xi. Reimburse County promptly for any damage caused to Center facilities, including but not limited to furniture, kitchen furnishings and/or utilities, computers and other technology equipment, by RENA staff, customers, guests, or invitees.
- xii. The Center shall be used for the operation of a community and recreation center open to the general public and all other uses reasonably related thereto.
- xiii. Comply with all applicable federal, state, and local laws, ordinances, rules, or regulations.
- xiv. May, upon receiving appropriate permitting, serve meals as part of designated programs.

- xv. May, upon receiving appropriate permitting and authorization as required by law and written authorization from the County Manager, serve alcohol as part of approved events.
- b) RENA and Orange County hereby covenant and agree that in conjunction with the operation and use of the Center:
- i. RENA shall operate the Center in accordance with County policies, including facility access, without discrimination and regardless place of residence, to all residents of Orange County;
  - ii. RENA shall not enact policies that have the effect of denying use of the Center by any Orange County residents;
  - iii. RENA shall continuously operate the Center during the term of this Agreement subject to closures due to County-recognized holidays, casualty, condemnation, events of force majeure, or closures caused by any act or omission by County, its agents, employees, contractors, or subcontractors;
  - iv. RENA shall provide janitorial service to the Center and shall maintain the Center in a clean and safe condition free from hazard;
  - v. RENA shall maintain records related to the operations of the Center including accounting and operations records and all such Center records shall remain the property of County and shall be subject to the disclosure provisions of applicable federal and state statutes and regulations and shall be furnished to Orange County upon request;
  - vi. Any and all fixtures purchased by RENA from Center operations funds for use or consumption at the Center are and shall remain property of the County. For purposes of this section the term fixtures includes any kitchen or other appliances. Personal property purchased by RENA shall remain the property of RENA;
  - vii. RENA may charge fees for programs and services at or involving the Center. Any such fees shall not exceed the cost of providing such programs and services.
  - viii. RENA is responsible for any and all repairs that amount to less than two hundred dollars (\$200) per repair or incident. County is responsible for any and all repairs that amount to two hundred dollars (\$200) or more per repair or incident.
  - ix. RENA shall contract with a private hauler for the provision of roll out carts and/or other individual containers for municipal solid waste and recycling. RENA may not seek dumpster infrastructure and service through Chapel Hill or Orange County.
  - x. Orange County shall provide appropriate screening for such roll out carts or other individual containers.
  - xi. RENA shall maintain such roll out carts or other individual containers in the appropriate screened location and shall at due times deliver the roll out carts or individual containers to the curb for collection and return them to their screened locations after collection.
  - xii. RENA shall incorporate standard municipal solid waste and recycling rules and procedures within its operations protocols.

### 3. Facility Use Guidelines

By this Agreement, the County authorizes the use of the Center only to the extent permitted by the terms of this Agreement. The County does not incur any liability to RENA or any member of the public for RENA's operation and/or use of County property under this agreement and RENA shall defend, indemnify and hold harmless the County from and against any and all claims

related to RENA's operation, use of, or presence at Center facilities. RENA staff and members of the public will abide by County policies while on County property.

The County's facility use policy will serve as the guiding document for operations of the Center. Smoking is prohibited. No staff or visitor shall be permitted under any circumstances to use tobacco products in or on the grounds of any County property including the Center. The use of open flames, gambling, and alcoholic beverages are also prohibited unless appropriately permitted and/or approved in writing by the County Manager as may be required by law. Absolutely no weapons of any kind are allowed on the Center premises.

#### **4. Insurance Requirements**

RENA shall provide evidence of general liability insurance to the County by way of a certificate prior to operation and use of the Center. Orange County shall be named as additional insured to RENA's general liability endorsed policy. RENA shall maintain combined single limits not less than \$1,000,000 per occurrence with aggregate limits not less than \$2,000,000 per year. RENA shall provide notice to the County not less than 30 days prior to any cancellation or reduction of any liability coverage and annually provide the County with an updated certificate of insurance on or before each policy renewal date. RENA shall secure liability insurance suitable for any kitchen operations. All such insurance policies and coverages must be approved by the Orange County Risk Manager. The certificate of liability insurance shall be addressed and sent to:

Orange County  
Attention: Director of Risk Management Services  
200 S. Cameron Street  
Hillsborough, NC 27278

#### **5. Access to County Facilities**

RENA shall provide a list of volunteers and employees who will be assigned to the Center to the County within five days of the date of signing of this agreement or prior to the employee's or volunteer's first day of work at the Center. County reserves the right to prohibit any individual employee or volunteer of RENA from accessing or providing services on County property, including the Center, or at County events if County determines, in its sole discretion, that such employee poses a threat to the safety or well-being of County employees, guests, customers, or invitees.

RENA shall conduct criminal background checks on each of its employees who will be employed or volunteering at the Center. RENA shall provide documentation that criminal background checks were conducted on each of its employees and/or volunteers prior to assigning them to the Center, and shall refuse employment or volunteer positions in its Center programs to any person convicted of a felony or any other crime that indicates the person poses a threat to the physical safety of County employees, guests, customers, or invitees. Such check shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. RENA shall not assign any employee or volunteer to staff the Center pursuant to this Agreement if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any felony involving sexual misconduct, violence, or drugs; (4) any misdemeanor involving sexual misconduct; or (5) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of County employees, guests, customers, or

invitees. Notwithstanding the foregoing, RENA may allow nonviolent juvenile misdemeanants required to perform community service by a court of law or other state mandated program to volunteer at the Center.

## **6. Observation and Documentation**

County staff may observe, photograph, videotape, or audiotape any RENA volunteers or employees, County employees, guests, customers, or invitees. RENA shall secure necessary releases, which authorize County to publish such photographs, videotapes, or audiotapes. Any media coverage of RENA operations of the Center must receive prior authorization from the County Manager. RENA agrees to indemnify and hold County harmless for the failure by RENA to secure necessary releases pursuant to the terms of Section 8 herein.

## **7. Evaluation**

Both RENA and County agree to hold annual evaluation review meetings to assess the success and direction of the operation of the Center.

## **8. Indemnification**

RENA shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against all claims, actions, demands, costs, damages, losses and/or expenses of any kind whatsoever, in whole or in part, resulting from or connected with any acts of RENA employees or program participants or from the omission or commission of any act, lawful or unlawful, by RENA, its agents and/or employees, including but not limited to court costs and attorney's fees incurred by County in connection with the defense of said matters.

## **9. Rental Rate and Administrative Fees**

Rental rates and administrative fees shall be consistent with the Orange County Facilities Use Policy. County shall designate which, if any, rooms within the Center may be available for rent to the public or to local community groups. Any such rental shall comply with the Orange County Facilities Use Policy and shall be approved by the Orange County Facilities Management Director. RENA shall pay the County an annual \$25.00 administrative fee.

## **10. Termination and Renewal**

Upon the expiration of the initial term this Agreement may be renewed for up to four (4) additional five (5) year terms only by joint written agreement of both Parties. This Agreement may be terminated by mutual agreement of the Parties. At any time, County may terminate this Agreement and any renewal thereof immediately and without prior notice to RENA if County determines in its sole discretion that the health, safety, or well-being of County employees, guests, customers, or invitees are jeopardized by RENA's operation of the Center.

## **11. Reorganization or Dissolution**

Should RENA undergo a corporate reorganization, restructuring, or voluntary or involuntary dissolution this Agreement shall immediately terminate and RENA will vacate the Center premises.

## **12. Relationship of the Parties**

RENA is a contractor of County. RENA is not a partner, agent, employee, or joint venture of County and neither Party shall hold itself out contrary to these terms by advertising or otherwise. Neither Party shall be bound by any representation, act, or omission whatsoever of the other.

**13. Approvals, Amendments, Notices.**

Any approval or notice required by the terms of this Agreement shall be in writing and executed by the appropriate party. This Agreement may be amended only by written amendments duly executed by and between both Parties.

**14. North Carolina Law.**

North Carolina law will govern the interpretation and construction of this Agreement.

**15. Entire Agreement.**

This Agreement constitutes and expresses the entire agreement and understanding between the Parties concerning the subject matter of this Agreement. This document and any other document incorporated in this Agreement by reference supersede all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this Agreement.

**16. Severability.**

If any provision of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

SIGNATURE PAGE TO FOLLOW

Signers for RENA and the County certify that they are authorized to enter this agreement.

\_\_\_\_\_  
RENA-President

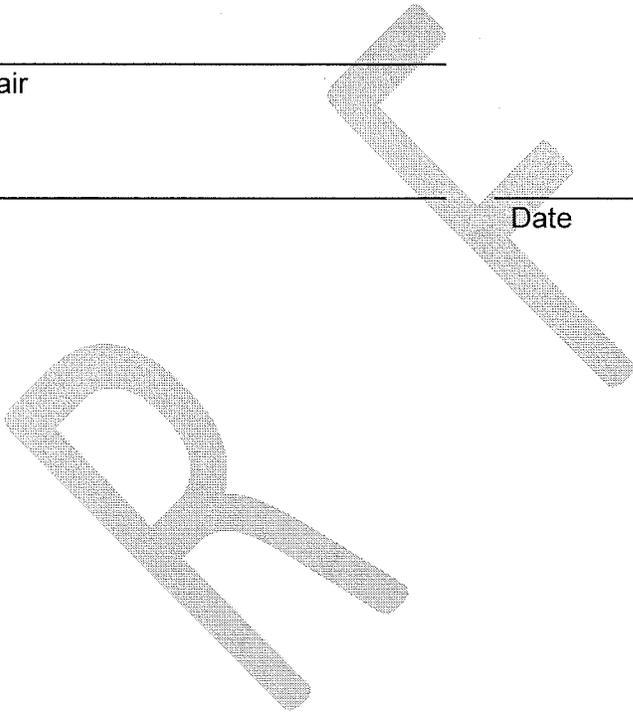
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Date

\_\_\_\_\_  
Orange County-Chair

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date



## ATTACHMENT C



A motion was made by Alderman Johnson, seconded by Alderman Slade, that this resolution be approved.

**A RESOLUTION TO PROVIDE COMMENT ON ALTERNATIVES DISCUSSED BY THE  
HISTORIC ROGERS ROAD NEIGHBORHOOD TASK FORCE**

**WHEREAS**, for more than 40 years, the people of Orange County have burdened the Rogers Road community by disposing of municipal solid waste in the nearby landfill; and

**WHEREAS**, the Board of Aldermen believes that Orange County, the Town of Carrboro, and the Town of Chapel Hill should work in partnership to equitably, and in proportion to their responsibility, share the costs of providing a community center and sewer improvements in the Historic Rogers Road Neighborhood, just as the partners share the privilege of owning, operating, and using the landfill; and

**WHEREAS**, on November 14, 2012, the Historic Rogers Road Neighborhood Task Force unanimously recommended to the Assembly of Governments “that the costs of both a New Community Center and Sewer Improvements be shared by the local governments, at the same costs sharing percentages as outlined in the 1972 Landfill Agreement, 43% for Orange County, 43% for The Town of Chapel Hill and 14% for The Town of Carrboro”; and

**WHEREAS**, 14% of the estimated cost of providing a community center and sewer improvements in the Historic Rogers Road Neighborhood is approximately \$900,000; and

**WHEREAS**, on September 18, 2012, the Board of Aldermen unanimously adopted the following statement: “The Town of Carrboro has the intention of contributing not more than \$900,000 for the town’s portion of the community center and cost of the sewer project. The town manager shall research funding sources. Town staff shall also investigate how the town can recoup the sewer line investment costs from developers. The board expresses its appreciation to the county for their commitment to the project and requests that the Town of Chapel Hill consider their share of the contribution”; and

**WHEREAS**, on June 12, 2013, the Historic Rogers Road Neighborhood Task Force discussed two alternative plans for sewer improvements in the neighborhood and requested comment on those plans from the Board of Aldermen, the Chapel Hill Town Council, and the Orange County Board of Commissioners; and

**WHEREAS**, alternative 1 involves construction of a sewer project to serve 78% of the parcels in the Historic Rogers Road Neighborhood (segments 5, 6, and 8 on the Historic Rogers Road Area Sewer

Concept May 2012 Map) at an estimated cost of approximately \$3.7 million. Under this alternative, the Town of Carrboro would contribute \$900,000 toward the cost of the sewer project, and Orange County would contribute the remaining \$2.8 million. The Town of Chapel Hill would not contribute to the sewer project but would reimburse Orange County for the cost of constructing the community center (estimated at \$650,000); and

**WHEREAS**, alternative 2 involves construction of a sewer project to serve 100% of the parcels in the Historic Rogers Road Neighborhood (segments 1 through 8 on the Historic Rogers Road Area Sewer Concept May 2012 Map) at an estimated cost of approximately \$5.8 million. Under this alternative, the Town of Carrboro would contribute up to \$900,000 toward the cost of the community center and the sewer project, and Orange County and the Town of Chapel Hill would contribute the remaining amount. This alternative would require the Town of Chapel Hill to initiate a request for extraterritorial jurisdiction and Orange County to approve the request so that the Town of Chapel Hill can contribute funds for its share of the community center and the sewer project in proportion to its responsibility; and **WHEREAS**, the attachment to this resolution shows the costs and potential cost sharing associated with each of the alternatives;

**NOW, THEREFORE, BE IT RESOLVED:**

**SECTION 1.** The Board of Aldermen prefers alternative 2 for two reasons. First, this alternative will provide sewer improvements to the entire Historic Rogers Road Neighborhood. Second, this alternative will enable all of the partners—Orange County, the Town of Carrboro, and the Town of Chapel Hill—to equitably share the costs of the community center and sewer improvements in proportion to their responsibility.

**SECTION 2.** If the Orange County Board of Commissioners and the Chapel Hill Town Council do not favor pursuing alternative 2, the Board of Aldermen is willing to explore alternative 1 and remains committed to contributing not more than \$900,000 for the town's portion of the community center and sewer improvements.

**SECTION 3.** The clerk is directed to send a copy of this resolution to the chair of the Orange County Board of Commissioners, the mayor of the Town of Chapel Hill, and the members of the Historic Rogers Road Neighborhood Task Force.

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**ATTACHMENT TO THE RESOLUTION**

**Alternative 1**

Costs

- Sewer: \$3,700,000
- Community center: \$650,000
- Total: \$4,350,000

Cost Share Among the Partners

- Carrboro: \$900,000 (20.7%)
- Chapel Hill: \$650,000 (14.9%)
- Orange County: \$2,800,000 (64.4%)

**Alternative 2**

## Costs

- Sewer: \$5,800,000
- Community center: \$650,000
- Total: \$6,450,000

## Cost Share Among the Partners

- Carrboro: \$900,000 (14.0%)
- Chapel Hill: share to be determined (\$2,775,000 [43.0%])
- Orange County: share to be determined (\$2,775,000 [43.0%])

This the 18<sup>th</sup> day of June, 2013.

The motion carried by the following vote:

Aye: Mayor Chilton, Alderman Gist, Alderman Haven-O'Donnell, Alderman Johnson, Alderman Lavelle, Alderman Slade and Alderman Seils

I, Catherine C. Wilson, Town Clerk for the Town of Carrboro, NC do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Carrboro Board of Aldermen.



  
Town Clerk

**ORANGE COUNTY  
ASSEMBLY OF GOVERNMENTS  
ACTION AGENDA ITEM ABSTRACT  
Meeting Date: November 21, 2013**

**Action Agenda  
Item No. 5**

**SUBJECT:** Accommodating Appropriate Agricultural Support Enterprises in the Rural Buffer  
- Proposed Changes to the Orange County Unified Development Ordinance

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**DEPARTMENT:** Planning and Inspections

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

No
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**ATTACHMENT(S):**

- A) List of New Uses Proposed to be Applicable to the Rural Buffer
- B) General Use and Conditional Zoning Districts (Educational Information)
- C) Most Pertinent Pages of Draft ASE Amendment Package – Standards & Definitions

**INFORMATION CONTACT:**

Perdita Holtz, Planner III, (919)245-2578  
Craig Benedict, Planning Director, (919) 245-2592

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**PURPOSE:** To discuss proposed changes to the County's Unified Development Ordinance (UDO) that will accommodate appropriate "Agricultural Support Enterprises" in the Rural Buffer.

**BACKGROUND:** The Agricultural Support Enterprises (ASE) project has been in development since 2001 and has been known by other names ("Rural Enterprises" and "Agricultural Services") in the past. The topic was appeared on the March 29, 2004 Joint Planning Area (JPA) agenda as an Information Item. The topic has also been discussed during recent Board of County Commissioners (BOCC) work sessions and the materials for the most recent meeting, which includes links to all past meetings, can be viewed at: <http://orangecountync.gov/occlerks/130909.pdf>.

The purpose of the ASE project is to augment allowable uses farmers throughout Orange County's planning jurisdiction can pursue in order to generate additional farm-related income and to potentially allow farming support/related uses in rural areas while minimizing any adverse impacts on adjoining property by applying special standards for specific uses and the development requirements in the County's UDO for all projects. By better enabling farmers to stay in the business of farming, the rural, farming heritage of Orange County will continue to be preserved.

**Orange County – Chapel Hill – Carrboro Joint Planning Area Agreement**

The JPA Agreement (available at: <http://orangecountync.gov/planning/Documents.asp>) and accompanying land use plan established the Rural Buffer around Chapel Hill and Carrboro. At

the time the agreement was established, "Agriculture," as a type of use, was folded in to the Rural Buffer land use category. The area that comprises the Rural Buffer is under Orange County's planning and zoning jurisdiction and the joint planning agreement provides for courtesy review by the Towns of development projects within the Rural Buffer and of regulatory text amendments that affect the Rural Buffer. The agreement provides that Orange County will not adopt proposed amendments until the expiration of thirty (30) days following referral of the amendment to the Towns.

While the JPA land use plan does not contemplate additional non-residential uses in the Rural Buffer, the three partner jurisdictions **may wish to discuss the desirability of potentially allowing agriculturally-related, non-residential uses to either be allowed outright (for some uses) or considered for approval as a conditional zoning district application.** There are a number of farms located in the Rural Buffer that could benefit from being able to augment farm income with certain farm-related activities that are not considered "bona fide farm" activities. Additionally, since the Rural Buffer is located in and adjacent to much of the population of Orange County, farms have a unique opportunity to provide certain amenities that could help them keep farming. An example is the Maple View Farms ice cream shop on Dairyland Road which is quite popular with Chapel Hill, Carrboro, and other County residents.

When County staff discussed the ASE project with the BOCC at its May 14, 2013 work session, BOCC members suggested that the topic be part of the November 2013 Assembly of Governments meeting so that **elected officials could provide feedback regarding accommodating appropriate ASE uses in the Rural Buffer.** Feedback received could help shape the materials brought forward for formal public hearing in February 2014.

### **Explanation of Attachments**

Attachment A contains a list of new uses that would be applicable to the RB (Rural Buffer) general use zoning district as well as a list of uses proposed for a new conditional zoning district (ASE-CZ). Please see Attachment B for information about the differences between a general use zoning district and a conditional zoning district. In an effort to minimize the number of attachment pages, Attachment C contains only the most pertinent pages of the draft amendment packet to facilitate discussion related to the Rural Buffer.

### **Status of Draft Amendments**

The draft UDO amendments, are also currently being reviewed by the County's Planning Board and Agricultural Preservation Board. These two advisory boards are being educated as to the content of the amendments and providing input that may shape the amendments that will go forward to public hearing in February. An example of the input is the likely result to remove the more intensive uses from consideration as an ASE-CZ for properties located in the Rural Buffer (these are the uses shown in red text in Attachment A).

The entire draft amendment packet, excepting the text changes that would remove the more intensive uses from consideration as an ASE-CZ in the Rural Buffer, can be viewed at: <http://orangecountync.gov/planning/documents/ORCPacketNov2013-web.pdf>. The necessary changes to remove the more intensive uses will be made after advisory board input and discussion at the AOG meeting becomes official.

**FINANCIAL IMPACT:** There is no financial impact in discussing the proposed amendments and providing feedback to staff.

**RECOMMENDATION(S):** The Managers recommend the Boards discuss as needed in order to provide feedback to staff regarding the proposed County UDO changes that would be applicable to the Rural Buffer in preparation for the Board of Commissioners' public hearing in February.

## Agricultural Support Enterprises

<b>Proposed <u>New</u> Uses that would be Applicable to the Rural Buffer General Use Zoning District (RB)</b>			
(there are many existing use categories that are permitted either by right or with an SUP [Special Use Permit] in the RB zoning district – check County's UDO [Section 5.2.1] for full list: <a href="http://orangecountync.gov/planning/documents/UDOMOSTCURRENTupdated052013.pdf">http://orangecountync.gov/planning/documents/UDOMOSTCURRENTupdated052013.pdf</a> )			
Use	Special Standards Section	Use	Special Standards Section
Agricultural Processing Facility, Community	5.13.3	Winery with Minor Events (with Class B SUP)	5.6.13
Community Farmers' Market	5.13.5	Microbrewery, production only (with Class B SUP)	5.14.2
Cooperative Farm Stand	5.13.7	Winery, production only (with Class B SUP)	5.14.4
Meat Processing Facility, Community	5.13.13	Rural Heritage Museum (with Class B SUP)	5.17.7
Non-Farm Use of Farm Equipment	5.13.15	Rural Special Events	5.17.8
Microbrewery with Minor Events (with Class B SUP)	5.6.10		

Note: In addition to the use-specific special standards section, development must conform to all requirements of Article 6 (Development Standards) and other Articles of the UDO. Article 6 covers regulations such as land use buffers and landscaping, parking requirements, signs, stream buffers, and stormwater management.

### Proposed ASE-CZ (Agricultural Support Enterprises) Conditional Zoning District

(uses in blue text are currently allowed in the RB general use zoning district; they should not be removed from the ASE-CZ uses applicable to the Rural Buffer. Standards sections marked with an \* already exist and are not proposed for modification so they are not included in the amendment packet – see County’s UDO to check these

standards: <http://orangecountync.gov/planning/documents/UDOMOSTCURRENTupdated052013.pdf> )

(uses in red text are “more intensive” and have been suggested for removal from consideration as an ASE-CZ in the Rural Buffer land use classification)

Use	Special Standards Section	Use	Special Standards Section
Agricultural Processing Facility	5.13.2	Sawmills	5.14.3
Agricultural Processing Facility, Community	5.13.3	Winery, production only	5.14.4
Agricultural Services Uses	None	Veterinary Hospitals	5.16.3
Cold Storage Facility	5.13.4	Veterinary Clinic	5.16.1
Community Farmers’ Market	5.13.5	Veterinary Clinic, mobile	5.16.2
Composting Operation, no grinding	5.13.6	Botanical Gardens & Arboretums	None
Composting Operation, with grinding	5.13.6	Camp/Retreat Center	5.7.4*
Cooperative Farm Stand	5.13.7	Guest Ranch	5.7.6
Equestrian Center	5.13.8	Parks, Public & Non-Profit	None
Farm Equipment Rental, Sales and Service	5.13.9	Dwelling; Mobile Home	5.5.6*
Farm Supply Store	5.13.10	Dwelling; Single-Family	None
Feed Mill	5.13.11	Telecommunication Tower – Stealth (75 feet or shorter)	5.10*
Greenhouses with On Premises Sales	5.13.12	Telecommunication Towers (150 feet in height or shorter)	5.10*
Meat Processing Facility, Community	5.13.13	Telecommunication Towers (greater than 150 in height)	5.10*
Meat Processing Facility, Regional	5.13.14	Buildings, Portable (Temporary use)	5.4.5*
Non-Farm Use of Farm Equipment	5.13.15	Temporary Mobile Home (Custodial Care)	5.4.4* and 5.5.6*
Stables, Commercial	5.13.16	Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	5.4.4*
Stockyards / Livestock Markets	5.13.17	Elevated Water Storage Tanks	5.9.4*
Rural Guest Establishment: Bed & Breakfast	5.6.7*	Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	5.9.3*

### Proposed ASE-CZ (Agricultural Support Enterprises) Conditional Zoning District

(uses in blue text are currently allowed in the RB general use zoning district; they should not be removed from the ASE-CZ uses applicable to the Rural Buffer. Standards sections marked with an \* already exist and are not proposed for modification so they are not included in the amendment packet – see County’s UDO to check these

standards: <http://orangecountync.gov/planning/documents/UDOMOSTCURRENTupdated052013.pdf> )

(uses in red text are “more intensive” and have been suggested for removal from consideration as an ASE-CZ in the Rural Buffer land use classification)

Use	Special Standards Section	Use	Special Standards Section
Rural Guest Establishment: Bed & Breakfast Inn	5.6.8*	Electric, Gas, and Liquid Fuel Transmission Lines	5.9.5*
Rural Guest Establishment: Country Inn	5.6.9*	Water & Sanitary Sewer Pumping	None
Country Store	None	Solar Array – Large Facility	5.9.6(B)*
Garden Center	5.6.3	Solar Array – Public Utility	5.9.6(C)*
Kennels, Class I	None	Accessory Uses	5.5.1*
Kennels, Class II	5.6.5*	Assembly Facility Greater Than 300 Occupants	None
Metal Fabrication Shop	5.14.1	Assembly Facility Less Than 300 Occupants	None
Microbrewery with Minor Events	5.6.10	Church	5.15.1*
Microbrewery with Major Events	5.6.11	Clubs or Lodges; Social; Fraternal or Union Clubhouses	None
Storage of Goods, Outdoor	6.4.10	Community Center	5.15.2*
Taxidermy	5.6.12	Historic Sites Non-Residential/Mixed Use	5.15.4*
Winery with Minor Events	5.6.13	Rural Heritage Museum	5.17.7
Winery with Major Events	5.6.14	Rural Special Events	5.17.8
Microbrewery, production only	5.14.2		

### General Use vs. Conditional Zoning Districts

The table below depicts the most salient differences between “general use” zoning districts and “conditional” zoning districts.

	<b>General Use</b>	<b>Conditional</b>
<b>Table of Permitted Uses</b>	<p>Uses are either:</p> <ul style="list-style-type: none"> <li>permitted by right or</li> <li>require a Class A or B Special Use Permit (SUP)</li> </ul> <p>If no *, A, or B in zoning district column in Section 5.2.1 of UDO, use is not permitted in that zoning district.</p>	Section 5.2.3 of UDO lists uses that can be applied for
<b>Application Process</b>	<p><u>If permitted by right:</u></p> <ul style="list-style-type: none"> <li>Apply for Zoning Compliance Permit (ZCP)</li> <li>Most uses require a site plan for a ZCP; some require only a plot plan</li> <li>Staff review and approval/denial in accordance with regulations in UDO</li> </ul> <p><u>If SUP required:</u></p> <ul style="list-style-type: none"> <li>SUP application</li> <li>Quasi-judicial process</li> <li>BOCC decides Class A SUP</li> <li>Board of Adjustment decides Class B SUP</li> <li>Site plan required as part of SUP application.</li> </ul>	<ul style="list-style-type: none"> <li>Application for rezoning must list all uses applied for</li> <li>Only approved uses are legal on property</li> <li>Site plan required as part of application</li> <li>BOCC makes rezoning decision</li> </ul>
<b>Can Development, Operational, or Other Conditions be Applied by Local Government?</b>	<p><u>If permitted by right:</u> No</p> <p><u>If SUP required:</u> Yes</p>	Yes. (Must be mutually agreed upon by government/applicant)

**Pertinent Pages of Amendment Package for “Agricultural Support Enterprises”****November 21, 2013 Assembly of Governments (AOG) Meeting**

## Notes

The pages that follow contain the most pertinent pages of the Unified Development Ordinance (UDO) amendment package related to “Agricultural Support Enterprises” (ASE). The pages were selected to facilitate discussion about ASE’s applicability to the Rural Buffer.

Proposed additions/changes to existing 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 ~~strikethrough~~ text.

As was stated in the AOG abstract, the entire draft amendment packet, sans the text changes that would remove the more intensive uses from consideration as an ASE-CZ in the Rural Buffer, can be viewed at: <http://orangecountync.gov/planning/documents/ORCPacketNov2013-web.pdf>. The necessary changes to remove the more intensive uses will be made after advisory board input and discussion at the AOG meeting becomes official.

<h1 style="margin: 0;">ASE-CZ</h1> <h2 style="margin: 0;">AGRICULTURAL SUPPORT ENTERPRISES</h2>	DIMENSIONAL AND RATIO STANDARDS <sup>3</sup>	
	PURPOSE	Lot size, min., per use (square feet)
The purpose of the Agricultural Support Enterprises (ASE-CZ) District is to provide for agriculturally-related activities that are not considered bona fide farming activities within the County's planning jurisdiction.	Lot Width, min. (feet)	150
	Front Setback from ROW, min. (feet)	40
	Side Setback, min. (feet)	20 [2]
	Rear Setback, min. (feet)	20 [2]
APPLICABILITY	Height, max. (feet)	45 [3]
The district shall be located in such a manner as to be compatible with the character of existing development of surrounding properties, thus insuring the continued conservation of building values and encouraging the most appropriate use of land in the county. Therefore, when evaluating an application for this district, emphasis shall be given to the location of the proposed development, the relationship of the site and site development plan to adjoining property, and the development itself. <sup>4</sup>	Floor Area Ratio, max	No requirement [4]
	Required Open Space Ratio, min.	No requirement [4]
	Required Livability Space Ratio, min.	No requirement [4]
	Required Recreation Space Ratio, min.	No requirement [4]
DIMENSIONAL STANDARDS NOTES: <sup>5</sup> [1] Lot size for individual uses shall be appropriate to the method of water supply and sewage disposal. [2] Required side and rear setbacks adjacent to residentially zoned land shall be equal to the required side or rear setback of the adjacent residential district. [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] The overall development will be evaluated to ensure compatibility with surrounding properties and with planning objectives.	Required Pedestrian / Landscape Ratio, min.	No requirement [4]
ASE-CZ DISTRICT SPECIFIC DEVELOPMENT STANDARDS <sup>6</sup>		
1.	Uses shall be restricted to those indicated for the ASE-CZ District in Section 5.2. Additionally, non-residential uses are restricted based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.3 for land use restrictions.	
2.	Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.	
3.	The residential density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property). The ASE-CZ district is not intended for residential uses such as subdivisions. Any residential uses are to be occupied by the operator of the associated	

<sup>3</sup> These standards are consistent with other existing zoning district such as AR and AS and/or are consistent with how other CZ districts are handled.

<sup>4</sup> This statement is consistent with the statements made for other CZ districts.

<sup>5</sup> Consistent with how similar uses/zoning districts are written.

<sup>6</sup> These are typical of other zoning districts and seek to direct users to other applicable sections of the UDO. #3 also clarifies that residential uses in the ASE-CZ district are incidental.

- farm or the proprietor of the approved use.
4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Sections 4.2.5 and 4.2.6 for a breakdown of the allowable impervious surface area.
  5. For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.

There are no changes on this page, it is included to make the change on the next page more clear.

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

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

**(2) Standards of Evaluation –**

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

**SECTION 5.6: STANDARDS FOR COMMERCIAL USES**

**5.6.1 Nightclubs, Bars and Pubs**

**(A) General Standards for Evaluation**

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

**5.6.2 Massage Business**

**(A) General Standards for Evaluation**

- (1) Must comply with the Ordinance for the Control of Massage and Massage Establishments
- (2) The submittal of construction plans for all existing and proposed buildings housing the massage business. The construction plans shall include floor plans and cross sections showing the proposed use of all portions of such buildings.
- (3) For existing buildings, certification by the Orange County Building Inspector that the structure(s) complies with the North Carolina Building Code and all related construction codes.

**5.6.3 Garden Center**

**(A) General Standards for Evaluation**

- (1) Outdoor display and storage of goods will be permitted.
- (2) Outdoor storage of bulk goods shall be located to the rear or side of the primary building and screened on three sides by an eight foot high opaque wall or fence.
- (3) Outdoor storage for bulk goods shall be limited to 1,500 square feet per acre of the zoning lot.

- (4) Land use buffers shall be provided in accordance with the requirements of Section 6.8.<sup>22</sup>

#### 5.6.4 Junkyards

##### (A) Standards for Class A Special Use Permit

###### (1) Submittal Requirements –

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

- (a) Detailed plans and specifications for the site screening proposed.
- (b) Description of type and number of motorized machines to be employed upon site.
- (c) Indicate on the site plan the extent of area to be used for the storage of junked or wrecked motor vehicles

###### (2) Standards for Evaluation -

- (a) The site shall be screened from adjacent property by a minimum of an eight foot high solid fence or equal, uninterrupted except for required vehicle access points.
- (b) No materials shall be stored closer than 50 feet to the public right of way or 30 feet to the property lines.
- (c) Site is of adequate size to protect adjacent properties from adverse effects of the junkyard.

#### 5.6.5 Kennels (Class II)

##### (A) Standards for Class B Special Use Permit

###### (1) Submittal Requirements –

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

- (a) Plans for all kennels, exercise yards, dog runs, pens and related improvements, including signage.
- (b) Site plan showing the improvements listed in a) above, other structures on the same lot, and structures on adjacent property.

###### (2) Standards of Evaluation –

- (a) The site is of adequate size to protect adjacent properties from adverse effects of the kennel.
- (b) No part of any building, structure, dog run, pen, or exercise yard in which animals are housed or exercised shall be closer than 150 feet from a property line, except property occupied by the owner/operator of the kennel. These minimum distances shall not apply if all portions of the facility, in which animals are housed, are wholly enclosed within a building.

<sup>22</sup> Staff is recommending this be removed as it is redundant with requirements of the UDO – all uses must meet the buffer requirements. Calling this out as a separate item for this particular use can cause confusion as to applicability to other uses; this is a remnant of duplicity staff attempted to catch when incorporating the previous zoning ordinance into the UDO but this instance was missed at the time.

- 
- ~~(d) If the Board of County Commissioners does not renew the permit, the permit shall become null and void upon the expiration of the time limit.~~
- ~~(e) If the Special Use Permit is not renewed or re-approved, then the applicant may submit a new application as if it were a new use.~~

### 5.6.10 Microbrewery with Minor Events

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#### (A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning Districts

- (1) In addition to the requirements in Section 2.7 or 2.9, as applicable, the following information shall be submitted with the application materials:
- (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
  - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
  - (c) A map depicting surrounding uses and the distance to residential structures.
  - (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Events shall be limited to no more than 150 people at one time and shall occur no more than 12 days per year.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) Retail sales and facility tours are intended to be minor components of the overall use as a microbrewery that produces craft malt beverages. Retail sales may include complementary items but are intended to be comprised primarily of products produced on-site. The permit may specify limits to these activities.

### 5.6.11 Microbrewery with Major Events

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#### (A) Standards for ASE-CZ or MPD-CZ Zoning Districts

- (1) (1) In addition to the requirements in Section 2.9, the following information shall be submitted with the application materials:
- (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
  - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
  - (c) A map depicting surrounding uses and the distance to residential structures.

- (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Major events may attract more than 150 people at one time and may occur more frequently than twelve times per year.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) The permit may limit the frequency of events.
- (9) Retail sales are intended to be comprised primarily of products produced on-site but may include complementary items.

#### 5.6.12 Taxidermy

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**(A) Standards for Class B Special Use Permit**

- (1) Enterprises located in an AR (Agricultural Residential) zoning district must be located on a bona fide farm.
- (2) If located adjacent to residentially zoned property, all buildings, structures, facilities, etc. used in the taxidermy enterprise shall be located a minimum of 100 feet from the property line.

#### 5.6.13 Winery with Minor Events

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**(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning Districts**

- (1) In addition to the requirements in Section 2.7 or 2.9, as applicable, the following information shall be submitted with the application materials:
  - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
  - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
  - (c) A map depicting surrounding uses and the distance to residential structures.
  - (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Events shall be limited to no more than 150 people at one time and shall occur no more than 12 days per year.

- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) Retail sales and facility tours are intended to be minor components of the overall use as a microbrewery that produces craft malt beverages. Retail sales may include complementary items but are intended to be comprised primarily of products produced on-site. The permit may specify limits to these activities.

**5.6.14 Winery with Major Events**

**(A) Standards for ASE-CZ or MPD-CZ Zoning Districts**

- (1) In addition to the requirements in Section 2.9, the following information shall be submitted with the application materials:
  - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
  - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
  - (c) A map depicting surrounding uses and the distance to residential structures.
  - (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Major events may attract more than 150 people at one time and may occur more frequently than twelve times per year.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) The permit may limit the frequency of events.
- (9) Retail sales are intended to be comprised primarily of products produced on-site but may include complementary items.

**SECTION 5.7: STANDARDS FOR RECREATIONAL USES**

~~5.7.1 Recreational Facilities~~

~~(A) General Standards of Evaluation~~

- ~~(1) The standards included herein shall be applied to the following for-profit recreational facilities:
 
  - ~~(a) Tennis clubs,~~~~

To accomplish this goal, the owners/managers have the option of employing, either singly or in combination, any of the following:

- (1) Requiring all competition vehicles to have functional noise mufflers attached at all times;
- (2) Installing a system of noise baffles, berms, or walls on the perimeter of the racetrack facility incorporated into the design and placement of any lighting system and viewing stands, and/or
- (3) Depressing the elevation of the raceway track surface, or
- (4) Some other innovative noise abatement system.
- (L) Limits on racing activities shall be such that no race shall extend beyond 11:00 p.m. on Friday and Saturday nights, or beyond 9:00 p.m. on other evenings. Practice activities shall not commence before 10:00 a.m. on any day and shall cease by 9:00 p.m.
- (M) All external lighting fixtures shall comply with Orange County lighting standards (Section 6.11).
- (N) No storage of hazardous materials shall be permitted, except for racing fuel and lubricants. Such material storage areas shall be enclosed and posted and the Orange County Fire Marshal shall approve a pollution incident prevention plan for the storage facility prior to final occupancy permits.
- (O) If additional or accessory land uses are desired, the facility owner shall cause a new site plan to be created outlining the location and nature of the proposed new land use, demonstrating compliance with this Ordinance.
- (P) The County shall approve a construction schedule to complete the items listed above.

**5.7.6 Guest Ranch**

**(A) Standards for ASE-CZ Zoning District**

- (1) Minimum lot size: 25 acres.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) All structures, facilities, storage areas, and parking areas shall be located a minimum of 100 feet from all property lines.
- (4) Special events are not allowed unless approved in the permit and may be limited in duration, frequency, number of people in attendance, or other aspects.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

**SECTION 5.8: STANDARDS FOR CHILDCARE & EDUCATIONAL FACILITIES**

**5.8.1 Daycare Center in a Residence**

**(A) Submittal Requirements**

- (1) In addition to the information required by Section 2.4.3, the plot plan shall show the following:
  - (a) The location of the residence in which the Daycare Center in a Residence is to be located in relation to existing property lines and adjacent homes;

### 5.13.2 Agricultural Processing Facility

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**(A) General Standards for Evaluation**

- (1) If located adjacent to residentially zoned property, all buildings and outdoor storage areas shall be located a minimum of 100 feet from the property line.
- (2) Outdoor storage areas shall be screened from the view of any adjacent residentially zoned property.

### 5.13.3 Agricultural Processing Facility, Community

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**(A) General Standards for Evaluation**

- (1) If located in an RB or AR zoning district, facility shall be located on the bona fide farm of one of the cooperative farm partners or must be permitted as an ASE-CZ.
- (2) The building shall not exceed 10,000 square feet in size.
- (3) If located adjacent to residentially zoned property, all buildings and outdoor storage areas shall be located a minimum of 100 feet from the property line.
- (4) Outdoor storage areas shall be screened from the view of any adjacent residentially zoned property.

### 5.13.4 Cold Storage Facility

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**(A) General Standards for Evaluation**

- (1) If located adjacent to residentially zoned property, all buildings and outdoor storage areas shall be located a minimum of 100 feet from the property line.
- (2) Outdoor storage areas shall be screened from the view of any adjacent residentially zoned property.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.

### 5.13.5 Community Farmers' Market

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**(A) General Standards for Evaluation**

- (1) The minimum lot size shall be 3 acres unless permitted as an ASE-CZ.
- (2) If located adjacent to residentially zoned property, all buildings and vendor areas shall be located a minimum of 100 feet from the property line.

### 5.13.6 Composting Operation

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**(A) General Standards for Evaluation**

- (1) The minimum lot size shall be 10 acres unless permitted as an ASE-CZ.
- (2) All operations shall be located a minimum of 150 feet from all property lines.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (4) Outdoor storage areas shall be screened from view of adjacent properties and the road right-of-way.

- (5) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- (6) Compost piles shall not exceed 15 feet in height.
- (7) Operations that include grinding shall adhere to the following:
  - (a) Grinding shall be permitted only during the hours of 7 a.m. and 7 p.m., or as otherwise specified on the permit.
  - (b) Grinding area shall be located a minimum of 1,000 feet from any existing dwelling unit located on adjacent properties.
  - (c) Grinding area shall be located a minimum of 300 feet from all property lines.

#### 5.13.7 Cooperative Farm Stand

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##### (A) General Standards for Evaluation

- (1) If located in an RB or AR zoning district, stand shall be located on the bona fide farm of one of the cooperative farm partners.
- (2) In addition to the application materials required in Sections 2.5.2 and 2.4.3, the following shall also be required:
  - (a) The number and location of participating cooperative farm partners.
  - (b) A description of the facility, including size of structure(s) and access locations.
  - (c) Number of employees, if any.
  - (d) Frequency and hours of operation.
- (3) Sales of any products not produced on the farm(s) of one of the cooperative farm partners shall be incidental, related to, and a subordinate component of farm stand sales in scale and profit.

#### 5.13.8 Equestrian Center

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##### (A) Standards for Class A Special Use Permit or ASE-CZ Zoning District

- (1) Minimum lot size: 15 acres.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) All structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Parking area(s) shall include sufficient space for parking and maneuvering trucks and horse trailers.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

#### 5.13.9 Farm Equipment Rental, Sales and Service

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##### (A) General Standards for Evaluation

- (1) Outdoor display and storage of equipment shall be permitted in the side and rear yards of the primary structure and shall be screened from view of adjacent properties.
- (2) Service bays shall be located at the side or rear of a structure and shall not be visible from adjacent residential property or the road right-of-way.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (4) Parking shall not be located in the front yard space.

#### 5.13.10 Farm Supply Store

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##### (A) General Standards for Evaluation

- (1) Outdoor storage of products shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.
- (2) Outdoor storage areas shall not be permitted to encroach upon required parking spaces.
- (3) All structures and outdoor storage areas shall be located a minimum of 100 feet from adjacent residentially zoned property.
- (4) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (5) Parking shall not be located in the front yard space.

#### 5.13.11 Feed Mill

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##### (A) General Standards for Evaluation

- (1) The minimum lot size shall be 3 acres, unless permitted as an ASE-CZ.
- (2) All structures, equipment, and outdoor storage areas shall be located a minimum of 100 feet from all property lines.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (4) Outdoor storage shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.

#### 5.13.12 Greenhouses with On Premise Sales

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##### (A) General Standards for Evaluation

- (1) If located in an AR (Agricultural Residential) zoning district, the minimum lot size shall be 3 acres, unless permitted as an ASE-CZ.
- (2) If located in an AR (Agricultural Residential) zoning district, outdoor storage shall be located in the side or rear yards and shall be setback a minimum of 100 feet from the property line.

#### 5.13.13 Meat Processing Facility, Community

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##### (A) General Standards for Evaluation

- (1) If located in an RB or AR zoning district, facility shall be located on the bona fide farm of one of the cooperative farm partners.
- (2) The building shall not exceed 10,000 square feet in size.
- (3) If located adjacent to residentially zoned property, all buildings, outdoor storage areas, and animal pens shall be located a minimum of 100 feet from the property

line.

- (4) Outdoor storage of products shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.
- (5) In addition to the application materials required in Section x.x.xx, the following shall also be required:
  - (a) The number of location of participating cooperative farm partners.
  - (b) Number of employees, if any.
  - (c) Frequency and hours of operation.

#### 5.13.14 Meat Processing Facility, Regional

##### (A) Standards for Class A Special Use Permit or ASE-CZ Zoning District

- (1) The minimum lot size shall be 15 acres.
- (2) If located adjacent to residentially zoned property, all buildings, outdoor storage areas, and animal pens shall be located a minimum of 300 feet from the property line.
- (3) Outdoor storage of products shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.
- (4) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (5) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

#### 5.13.15 Non-Farm Use of Farm Equipment

##### (A) General Standards for Evaluation

- (1) Use shall be located on a bona fide farm.
- (2) Equipment shall be screened from view from adjacent properties and road(s).
- (3) Outdoor storage of materials such as gravel, dirt, or plants shall be limited in both area and duration.
- (4) On-site retail sales shall not be permitted.

#### 5.13.16 ~~Riding Stables~~, Commercial<sup>25</sup>

##### (A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning Districts

###### (1) Submittal Requirements –

In addition to the information required by Sections 2.7 or 2.9, as applicable, the following information shall be supplied as part of the application for approval of this use:

- (a) Plans for all barns, boarding facilities, exercise yards, riding arenas, and related improvements, including signage.
- (b) Site plan showing the improvements listed in a) above, other structures on the same lot, and structures on adjacent property.

###### (2) Standards of Evaluation –

<sup>25</sup> Language shown in black text (existing) is proposed to be moved from existing Section 5.6.6.

- (a) ~~The site is of adequate size to protect adjacent properties from adverse effects of the riding stable.~~ Minimum lot size: 5 acres for up to 10 horses, increasing by ½ acre for each horse over 10.
- (b) No part of any building, structure, exercise yard, or riding arena, in which animals are housed or exercised shall be closer than 150 feet from a property line, except property occupied by the owner/operator of the facility. These minimum distances shall not apply if all portions of the facility, in which animals are housed, are wholly enclosed within a building.
- (c) The site plan shows parking, access areas and screening devices for buildings, riding arenas, and boarding facilities.
- (d) A sign clearly visible from the ground shall be posted at the main entrance to the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with dimensional requirements as set forth within this Ordinance.

### 5.13.17 Stockyards / Livestock Markets

#### (A) General Standards for Evaluation

- (1) The minimum lot size shall be 10 acres.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) All structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Parking area(s) shall include sufficient space for parking and maneuvering trucks and stock trailers.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- (7) If located adjacent to residentially zoned property, all animal pens shall be located a minimum of 300 feet from the property line.

## SECTION 5.14: STANDARDS FOR MANUFACTURING, ASSEMBLY & PROCESSING

### 5.14.1 Metal Fabrication Shop

#### (A) Standards for ASE-CZ Zoning District

- (1) Facility must be located on a bona fide farm.
- (2) Minimum lot size: 3 acres.
- (3) Maximum building size: 3,000 square feet.
- (4) If located adjacent to residentially zoned property, all buildings and operations must be located a minimum of 200 feet from the property line.

### 5.14.2 Microbrewery, production only

#### (A) Standards for Class B Special Use Permit or ASE-CZ Zoning District

- (1) If located in the RB and AR zoning districts, the microbrewery must be located on a bona fide farm.
  - (a) A microbrewery, production only, that is located on a bona fide farm, and which utilizes primarily crops produced on-site is considered a bona fide farming use and is not subject to zoning regulations.
  - (b) A microbrewery, production only, that does not utilize primarily crops produced on-site, regardless of whether it is located on a bona fide farm, is not considered a bona fide farming use and is subject to the regulations contained in this Ordinance.
- (2) If located adjacent to residentially zoned property, all buildings shall be located a minimum of 100 feet from the property line.

**5.14.3 Sawmills**

**(A) General Standards for Evaluation and ASE-CZ Zoning District**

- (1) Minimum lot size: 5 acres.
- (2) All structures, equipment, and storage shall be located a minimum of 100 feet from the property line.
- (3) Hours of operation shall be limited to the hours between 7 a.m. and 7 p.m.
- (4) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.

**5.14.4 Winery, production only**

**(A) Standards for Class B Special Use Permit or ASE-CZ Zoning District**

- (1) If located in the RB and AR zoning districts, the winery must be located on a bona fide farm.
  - (a) A winery, production only, that is located on a bona fide farm, and which utilizes primarily crops produced on-site is considered a bona fide farming use and is not subject to zoning regulations.
  - (b) A winery, production only, that does not utilize primarily crops produced on-site, regardless of whether it is located on a bona fide farm, is not considered a bona fide farming use and is subject to the regulations contained in this Ordinance.
- (2) If located adjacent to residentially zoned property, all buildings shall be located a minimum of 100 feet from the property line.

**SECTION 5.15: STANDARDS FOR AUTOMOTIVE/TRANSPORTATION RELATED USES**

**5.15.1 Motor Vehicle Sales / Rental (New & Used) in the NC-2 Zoning District**

**(A) Standards for the NC-2 Zoning District**

- (1) This use shall only be permitted within the Commercial Transition Activity or Commercial-Industrial Transition Activity Node land use classifications, as designated on the Land Use Element Map of the adopted Comprehensive Plan.
- (2) The site shall have direct access onto a State maintained roadway.
- (3) A maximum of 12 cars may be stored or displayed on-site.

**SECTION 5.16: STANDARDS FOR MEDICAL USES**

**5.16.1 Veterinary Clinic**

**(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning District**

- (1) In the AR zoning district, this use is intended primarily for large animal facilities but may also contain an ancillary small animal component.
- (2) If located adjacent to residentially zoned property, all buildings and facilities shall be located a minimum of 100 feet from the property line.

**5.16.2 Veterinary Clinic, mobile**

**(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning District**

- (1) In the AR and R-1 zoning districts, this use is intended to be located on the same property as the operator's residence. The mobile clinic shall be parked to the side or rear of the residence, not in front of the residence, unless permitted otherwise in the permit.
- (2) For all zoning districts in which this use is permitted, observation shelters for up to three large or small animals shall be considered an accessory use. The permit may specify a greater number of observation shelters and may limit the maximum number of days an individual animal may be observed.
- (3) If adjacent to residentially zoned property, all mobile clinic operations shall be located a minimum of 100 feet from the property line.
- (4) Veterinary services whereby the public brings their animal to the mobile clinic location shall not be permitted, unless specifically permitted in the permit.

**5.16.3 Veterinary Hospital**

**(A) Standards for ASE-CZ Zoning District**

- (1) In the ASE-CZ zoning district, this use is intended primarily for large animal facilities but may also contain an ancillary small animal component.
- (2) If located adjacent to residentially zoned property, all buildings and facilities shall be located a minimum of 100 feet from the property line.

**SECTION 5.17: STANDARDS FOR MISCELLANEOUS USES**

**5.17.1 Churches**

**(A) General Standards**

- (1) Churches are required to provide setbacks in residential districts; the minimum shall be as follows:

TABLE 5.14.1.A: CHURCH SETBACK STANDARDS IN RESIDENTIAL DISTRICTS	
SETBACK	DISTANCE (FEET)
Front	45
Side	50
Rear	50

**5.17.2 Community Center**

**(A) Standards for Class B Special Use Permit**

- 
- (i) Habitat Maintenance
- (i) Habitats identified in the biological inventory and habitats created through mitigation shall be maintained in accordance with the Resources Management Plan and/or a conservation easement agreement; and
- (ii) Maintenance of habitats shall be minimal, consisting primarily of maintaining buffers and enhancements, removal of exotic (non-native) plant species, and keeping drainage ways functioning properly.
- (j) Access
- Access to the subdivision and access to lots within the subdivision to existing public roads shall conform to and be in compliance with any public road access management plan adopted by Orange County.
- (k) Maintenance of Improvements
- (i) All site improvements such as roads, utilities (including irrigation and drainage structures), habitat enhancements, recreational amenities, signage, landscaping, open space, etc. will be maintained in function and appearance.
- (ii) Maintenance specifications, if any, for on-going site management (including provisions for handling of storm debris in open space areas) shall be submitted as part of the Resources Management Plan and incorporated into Homeowners' Association documents.

### 5.17.7 Rural Heritage Museum

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**(A) Standards for Class B Special Use Permit or ASE-CZ Zoning District**

- (1) If located adjacent to residentially zoned property, all buildings, facilities, and parking areas shall be located a minimum of 100 feet from the property line.
- (2) The maximum building size in the RB or AR zoning districts shall be 5,000 square feet.

### 5.17.8 Rural Special Events

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**(A) General Standards for Evaluation or ASE-CZ or MPD-CZ Zoning Districts**

- (1) Must be located on a bona fide farm.
- (2) In addition to the requirements in Section 2.5 or 2.9, as applicable, the following information shall be submitted with the application materials:
- (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
- (b) Location of parking area(s).
- (c) A map depicting surrounding uses and the distance to residential structures.
- (3) The temporary or seasonal commercial activities that comprise the special event must pertain to agricultural or rural-related activities.
- (4) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.

- (5) Events permitted by right in the RB, AR, and AS zoning districts shall be limited to no more than 150 people at one time and shall occur no more than 12 days per year. Events exceeding these limits must be approved as an ASE-CZ or MPD-CZ.
- (6) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (7) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (8) Food services are not allowed unless approved in the permit.
- (9) Documentation shall be submitted from the Fire Marshal and Building Inspections Department stating that all areas open to the public meet state regulations.

The following general provisions are applicable to MPD-CZ applications and each permitted use, special use, accessory use, and conditional use in Economic Development Districts:

- (1) All uses and activities must provide secure, safe, and sanitary facilities for the storage and pickup of solid waste and recyclables. Such facilities must be convenient to collection and must be appropriate to the type and size of use or activity being served.
- (2) All solid waste and recyclables storage facilities must be screened in accordance with Sections 6.4 and 6.8. of this Ordinance.
- (3) All uses and activities must remove recyclable materials from the solid waste generated and make them available for recycling. Recyclable materials, consisting of glass, metal cans, plastic containers, corrugated cardboard and white office paper, newspapers, and motor oil, must not be mixed with or disposed of with other solid waste.
- (4) All uses and activities shall remove or cause to be removed all solid wastes from the site or property before harborage of such waste creates a health hazard.
- (5) Each Master Plan and site plan must be accompanied by Solid Waste Management Plan, including a recycling plan and a plan for the management of construction and land clearing debris. The recycling plan must provide information regarding the type and quantity of recyclable materials generated each month, and the facilities to be provided for collection and storage. Management plans for construction and land clearing debris must identify the type and quantity of debris as well as its disposal location.

#### 6.4.10 Service & Outdoor Storage

##### (A) General Standards

- (1) Building service and loading areas must be conveniently located and accessible for normal service and maintenance needs, including the provision of adequate turning radii and parking areas for service vehicles. Such areas are to be located at the side or rear of the principal building(s), and designed so that all service and loading operations occur within the confines of the building site.
- (2) Outdoor storage shall be located only to the side and rear of a building. No outdoor storage is permitted to the front of a building.
- (3) If located adjacent to residentially zoned property, outside storage areas shall be screened from view of the residentially zoned property and shall be located a minimum of 100 feet from the property line.<sup>26</sup>

##### (B) Additional Standards in Economic Development Districts

- (1) Exterior storage for materials, supplies, and equipment may only be located at the side or rear of a building and only in totally enclosed screened areas. Exterior storage areas must never be located to the front of any building unless screened from view through the use of fencing, walls and/or landscaping, in accordance with Section 6.8 of this Ordinance.

<sup>26</sup> While not only related to ASE uses, staff is suggesting the language regarding outdoor storage be included at this time because it is a direction Orange County has been going for several years in regards to outdoor storage areas. Staff is specifically noting that including the language in this section will make it apply in all commercial, industrial, economic development, and conditional districts (See 6.4.1(B)). If not included as part of this amendment package, additional standards (Article 5) may need to be added for some uses.

## DEFINITIONS

### Related to Agricultural Support Enterprises

In an effort to minimize the number of pages for the amendment package, relevant definitions have been extracted from the UDO and proposed new definitions are listed as a group. After approval, the definitions will be inserted alphabetically into Article 10 of the UDO.

#### Revised Definitions of Existing Terms:

##### **Commercial Feeder Operation<sup>1</sup>**

~~An intensive animal raising operation that takes place within a building. None of the feed is produced on the tract, and the processing is fully or partly automated.~~

##### **Riding Stable, Commercial**

~~A commercial facility where horses are sheltered, fed, groomed, boarded, trained, ridden, or bred. Typical accessory uses may include riding instruction, horse shows and auctions, a tack shop, and storage of feed and supplies. The operator of a riding stable shall be allowed to reside on the property to ensure the continuous care of the animals kept on-site.~~ **An establishment for boarding, breeding, training or raising of horses, ponies, mules, and/or donkeys for a fee; and/or rental of horses, ponies, mules, and/or donkeys for riding, driving, and/or instruction. Exercise rings shall be considered accessory uses to a commercial stable. The operator of a commercial stable may reside on the property to ensure the continuous care of animals kept on the site.**

#### Proposed Definitions for New Terms:

##### **Agricultural Processing Facility, Community**

**A facility utilized for the processing of produce and/or other commodities produced by no more than 5 cooperative farm partners for the consumption of others (e.g. small canning operation); Activities shall include, but may not be limited to, canning, dehydrations, washing, cutting or basic preparation of raw produce but does not include processing of live animals (see Meat Processing Facility). May include accessory retail sales of products processed on-site.**

##### **Agricultural Processing Facility**

**A facility utilized for the processing and packaging of produce and/or other commodities for transport to off-site wholesale or retail establishments. Facilities may be utilized by farm-based producers, restaurateurs, caterers, food entrepreneurs, and the like. Activities shall include, but may not be limited to, canning, dehydrations, washing, cutting or basic preparation of raw produce prior to shipment but does not include processing of live animals (see Meat Processing Facility). May include accessory retail sales of products processed on-site.**

##### **Agritourism**

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

##### **Cold Storage Facility**

**A facility used to warehouse perishable foods and products prior to transport.**

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<sup>1</sup> This is considered a bona fide farm operation under State Statutes and cannot be regulated with zoning so staff is suggesting it be deleted from the UDO.

### **Community Farmers' Market**

An enclosed or open-air facility for the retail sale of locally produced vegetables, flowers, meats, commodities, plants, crafts, etc. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

### **Composting Operation**

A facility designed and used for transforming food, yard waste and other organic material into soil or fertilizer through biological decomposition. This does not include backyard composting bins serving individual families.

### **Cooperative Farm Partner**

A local farmer or producer of agricultural products who forms a business arrangement with other local farmers and/or producers to collectively process, market, and/or sell agricultural goods. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

### **Cooperative Farm Stand**

An open-air facility, located on a bona fide farm, for the retail sale of produce, agricultural products, and/or plants produced on-site and from not more than 4 other cooperative farm partners.

### **Country Store**

An enclosed market not exceeding 1500 square feet in size for the retail sales of a variety of merchandise, which must include locally produced products. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

### **Equestrian Center**

A facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, rodeos, general horse/mule shows, and similar equestrian disciplines. A commercial stable may be included on the site.

### **Farm Equipment, Non-Farm Use**

Commercial use of the farm equipment owned/leased by, and stored on, a bona fide farm non-farming activities away from the bona fide farm. Examples include grading services and landscaping services.

### **Farm Equipment Rental, Sales and Service**

An establishment engaged in the rental, sales, service, and/or repair of construction or farm equipment, including excavators, loaders, graders, bulldozers, farm tractors 50 horsepower or more in size and other large, heavy-duty types of equipment used in the construction or farming industries but not including horse trailers, trucks, or other vehicles designed for use on public roads.

### **Farm Supply Store**

An establishment engaged primarily in the sale or rental of farm tools, small farming equipment, and farm supplies. Retail sales of animal feed, grain, hardware, lumber, tack, riding attire, animal care products, and the like may be an ancillary activity.

### **Feed Mill**

A building with machinery and apparatus for grinding and/or bagging grain.

### **Guest Ranch**

A rural lodge providing overnight accommodations for transient guests seeking a vacation experience characteristic to that of a rural ranch; onsite facilities may include lodge or cabin accommodations, dining

facilities, barns, dance hall and recreational facilities, including but not limited to riding rings, trails, fishing holes and swimming facilities.

### **Meat Processing Facility, Community**

A smaller scale facility, located on a bona fide farm, where livestock or wildlife is slaughtered, processed, and packaged for personal consumption and/or wholesale or retail sale. The livestock must be raised on the subject farm and from 1 to 4 other cooperative farm partners.

### **Meat Processing Facility, Regional**

A larger scale facility where livestock is slaughtered, processed, and prepared for distribution for wholesale or retail sale.

### **Metal Fabrication Shop**

A facility that is engaged in the shaping of metal and similar materials for wholesale or retail sale.

### **Microbrewery, production only**

A facility that produces less than 15,000 barrels per year of craft malt beverages for wholesale or retail sale and consumption off the premises. Shall be considered a bona fide farming use if located on a farm and using primarily crops produced on-site.

### **Microbrewery with Minor Events**

A facility that produces less than 15,000 barrels per year of craft malt beverages for consumption on- or off-site with limited hours for tours of the facility and tastings of the products produced on-site, and small periodic events that are expected to attract fewer than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

### **Microbrewery with Major Events**

A facility that produces less than 15,000 barrels per year of craft malt beverages for consumption on- or off-site with tours of the facility, tastings of the products produced on-site, and periodic events that are expected to attract more than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

### **Rural Heritage Museum**

A facility which stores and exhibits objects of historical, agricultural, and/or cultural interest for the purpose of educating the public about the rural heritage of Orange County and surrounding areas.

### **Rural Special Event**

A temporary or seasonal commercial activity that occurs on a bona fide farm and which is expected to attract more than 20 people at any given time.

### **Saw Mill**

A facility where off-site logs or timber are sawn, planed or otherwise processed into lumber or other wood products; not including the processing of timber for use on the same parcel of property.

### **Stockyard / Livestock Market**

A facility where livestock are kept temporarily awaiting purchase and/or transport; such facilities may include enclosed pavilions, grandstands, paddocks, and stalls.

### **Taxidermy**

The practice of preparing and preserving the skins of animals and of stuffing and mounting them in lifelike form.

**Veterinary Clinic**

A facility staffed by at least one licensed veterinarian for the care and treatment of large and/or small animals. Such facilities may include grooming and short-term boarding as incidental uses.

**Veterinary Clinic, mobile**

A mobile medical facility staffed by one or more licensed veterinarians to provide care, diagnosis, and treatment of animals in need of medical or surgical attention.

**Veterinary Hospital**

A facility staffed by at least one licensed veterinarian for the specialized treatment of large and/or small animals. Said facilities may provide emergency medical services during and outside of normal business hours. Overnight care may be provided when it is necessary for the medical treatment of the animal.

**Winery, production only**

A facility utilized for making wines for wholesale or retail sale and consumption off the premises. Shall be considered a bona fide farming use if located on a farm and using primarily crops produced on-site.

**Winery with Minor Events**

A facility utilized for making wines for consumption on- or off-site with limited hours for tours of the facility and tastings of the products produced on-site, and small periodic events that are expected to attract fewer than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

**Winery with Major Events**

A facility utilized for making wines for consumption on- or off-site with tours of the facility, tastings of the products produced on-site, and periodic events that are expected to attract more than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

**Relevant Existing Terms, no changes proposed:****Agricultural Services**

Commercial activities offering goods and services which support production of agricultural products or processing of those products to make them marketable. Examples include, but are not limited to, soil preparation, animal and farm management, landscaping and horticultural services, specialized commercial horticulture, specialized animal husbandry, biocide services, retail sales of farm/garden products, supplies and equipment, equipment rental and repair service, tack shop, farrier, blacksmith, welding shops, facilities for animal shows, animal sales and auctions, agriculture-based clubs/meeting halls, storage of agricultural supplies and products, and processing plants for agricultural products including wineries and canneries.

**Camp**

A recreation use which may include locations for tents, cabins, or other recreational sleeping structures, but would not include mobile homes or recreation vehicles. A camp may be owned by a profit or not-for-profit corporation.

**Farming**

The use of land consistent with the State of North Carolina's definition of farming, as contained in the General Statutes.

**Farm, Bona Fide**

The use of land meeting the criteria for “Farm” as defined by the State of North Carolina in the General Statutes.

### Garden Center

Retail sales operation providing lawn and garden supplies and small equipment rental primarily for home landscaping. Typical products include, but not limited to, decorative stone, garden ornaments, decorative pots, container plant stock, and bagged or bulk sand, mulch and topsoil. Seasonal sales such as Christmas trees, pumpkins and flowers are permitted in the outdoor display area.

### Retreat Center

A new or existing facility operated by a corporation or association of persons or churches for social and recreational purposes. A retreat center may be owned by a profit or not-for-profit corporation.

### Rural Guest Establishments

A temporary lodging facility that is compatible to the primary land use of agriculture, forestry, open space, or otherwise rural residential activities. Rural guest establishments consist of three subcategories based on intensity and permit requirements, Bed and Breakfast, Bed and Breakfast Inn, and Country Inn, which are further defined below.

- A. **Bed and Breakfast:** A private, owner-occupied dwelling in which the frequency and volume of paying guests is incidental to the primary use of the building as a private residence. One to three guestrooms are made available to transient visitors. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only. (Zoning Permit)
- B. **Bed and Breakfast Inn:** A business operated in a structure which is used primarily for providing overnight accommodations to the public, even though the owner or manager lives on the premises. The number of guestrooms may range from four to no more than eight. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only. (Class B SUP)
- C. **Country Inn:** A business, which offers accommodations and dining in a predominately rural area. Overnight accommodations are available, and a full-service restaurant provides breakfast, lunch and dinner to guests and the general public. The number of guestrooms may range from four to no more than 24. The restaurant shall contain no more than 60 seats. (Class A SUP)



**Orange County**  
**Asset Management Services**  
Jeffrey E. Thompson, Director

To: Michael Talbert, Interim County Manager

From: Jeff Thompson, Asset Management Services Director

Date: 11/8/13

**RE: Southern Campus Master Plan Development Update**

In the fall of 2012, the Orange County Board of County Commissioners approved a master plan for its 33.5 acre Southern Campus located at 3501 Homestead Road, Chapel Hill. The purpose of the master plan is to guide the long term development (approximately 25 years) for its government services campus convenient to the residents of Southern Orange County.

During the summer of 2013, the County and its consultant, Clarion Associates, submitted materials for a required pre-application meeting with Town staff to discuss components of the application. Arrangements were also put in place for preparation of a Traffic Impact Analysis by a Town designated transportation engineer. Following a Town staff review of the application and request for clarification/addition of information, a final application was submitted on August 8, 2013.

On October 3, 2013 the County staff and consultant team met with Town staff and agency reviewers to receive a set of comments and suggested revisions on the application. County staff and consultant are currently preparing revisions to the materials in response to Town staff comments and requests.

These revised materials will be presented to the Town Advisory Boards in January-February, 2014. After final review and approval of the Chapel Hill Town staff and the Orange County Commissioners, Chapel Hill Town Council may be scheduled to review the SUP-M modification as early as March, 2014.

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***FINANCE AND ADMINISTRATIVE SERVICES***

200 South Cameron Street  
Post Office Box 8181  
Hillsborough, North Carolina 27278

**Clarence G. Grier, CPA, CITP, CGMA**  
**Assistant County Manager – CFO**

Phone (919) 245-2553  
Fax (919) 644-3324

**MEMORANDUM**

To: Assembly of Governments  
From: Clarence Grier, Assistant County Manager – Chief Finance Officer  
Date: November 21, 2013  
Re: Potential Bond Issue

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Over the past few months, the Orange County Board of County Commissioners has discussed the need for a future bond referendum to fund some county and school long-range capital needs.

The anticipated issuance of general obligation bonds will be for two of the County's largest projects: New County Jail Facility and Middle School #5 for the Chapel Hill - Carrboro City School District total a combined \$73.2 million dollars and both projects are included in the current County Capital Investment Plan for the fiscal years 2015 - 2020.

An additional project that has been discussed is Elementary #8 for Orange County Schools, but this project is not scheduled until FY 2021-2022. Affordable housing, lands legacy, and park projects could potentially be included on a potential bond referendum.

Based on the County's current financial position, to afford the additional debt, the County would potentially have to increase the property tax rate 2.82 cents for the new debt service. This projected tax increase would not include any future other operating expenditure increases and or any future operating expenditure increases related directly to the new facilities and schools being built.

The Orange County's current bond ratings are as follows:

- S&P - AAA
- Fitch - AAA
- Moody's - Aa1 positive outlook

It is currently expected that projects totaling \$100-125 million could be financed with the issuance of general obligation or limited obligation bonds over a period not to exceed 20 years. At current municipal bond interest rates, the total combined debt service for \$100 million is estimated to be \$6.7 million annually. This would represent 4.18 cents on the current property tax rate.



***FINANCE AND ADMINISTRATIVE SERVICES***

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**MEMORANDUM**

To: Assembly of Governments  
From: Clarence Grier, Assistant County Manager – Chief Finance Officer  
Date: November 21, 2013  
Re: Older School Facility Needs

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Over the past year, both school districts have discussed with the County/Schools Collaboration Work Group and their respective Boards of Education the growing need to address repairs and upgrades for older school buildings and facilities.

Chapel Hill – Carrboro City Schools (CHCCS) has an assessment of their older schools and facilities needs prepared by Mosley Associates in the Spring of 2013. CHCCS assessment of their older school estimates and capital needs estimates potential repairs and upgrades will range from \$52 million (low end) to \$170 million (all encompassing).

Orange County Schools has just begun their assessment of the capital facility's needs. Orange County Schools has recently hired Corley, Redfoot and Zack, Inc., to conduct the assessment of their older school facilities. Orange County anticipates receiving their assessment in the Spring of 2014. Based on Average Daily Membership (ADM) percentage, a preliminary estimate for Orange county Schools could range between \$20 million (low end) to \$68 million (upper end). Orange County's Assessment will be provided later in the year.

The Orange County Board of County Commissioners will continue discussions of the older school facilities needs with both school districts, and evaluating the potential school enrollment, financial, and operating impacts of addressing the older facility needs in the FY 2014-2015 Budget and future budgets.



Orange County Library  
137 W. Margaret Lane.  
Hillsborough, NC 27278

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INFORMATION ITEM -  
Attachment 6 - D

To: Assembly of Government Officials

From: Lucinda Munger, Director, Orange County Public Library  
Jeff Thompson, Director, Asset Management Services  
Michael Harvey, Current Planning Supervisor, Planning Department

Cc: Michael Talbert, Interim County Manager

Date: November 21, 2013

Re: Southern Branch Library Siting Process Update

On September 18, 2012 the Orange County Board of Commissioners (BOCC), in conjunction with the Carrboro Board of Aldermen, approved a set of guiding principles and a comprehensive site selection criterion for locating the new Southern Branch of the Orange County Library (hereafter "the Branch"). Since that time the Town has submitted several properties for review by County staff consistent with the approved Branch siting process.

Following the September 18, 2013 BOCC work session Orange County staff was authorized to commence the second level of Phase 1 for review on the following 3 sites:

- 128 Hillsborough Road, commonly referred to as the Shetley property,
- 401 Fidelity Street, commonly referred to as the Town of Carrboro cemetery property, and
- 120 Brewer Lane, commonly referred to as the Butler Farm property.

Orange County staff began the second phase of Phase I by requesting pertinent due diligence information from Carrboro staff. This information request was in a letter from Interim County Manager Michael Talbert sent 10/1/13 to Town Manager David Andrews

On 10/23/13 the Town of Carrboro responded to the letter in an email from the Carrboro Town Manager and Planning Director. Among the items noted in the response:

- A) 1128 Hillsborough Road, Shetley property. The Board of Aldermen has not taken an official position on the land swap, but is not inclined to

support such an action. Further consideration and inquiry will be necessary. Orange County staff felt the development of the Shetley property is only feasible with a proper land swap agreement with Carrboro and the MLK Park.

- B) 401 Fidelity Street, Town of Carrboro cemetery property. There is significant exposed weathered rock crowning in the center of the most logical building site for a potential library structure and associated parking, indicating sizable potential subterranean rock formations. Orange County staff requested a legal opinion from Carrboro with regard to associated liabilities involving development adjacent to a cemetery-specifically related to the County's interest in rock blasting that is probable should this property be chosen for library development.

There are strong concerns from Orange County staff that probable blasting adjacent to a cemetery exposes the County to significant liabilities that will not only drive up the cost of the project but may cause concerns with residents and stakeholders in Orange County.

Orange County staffs experience is that rock blasting and removal adds significant cost to a project ranging from a 5-15% increase of a project's overall cost. *Potential liability costs associated with disturbing existing cemetery burial plots adjacent to the building site through a blasting process are incalculable.*

The Carrboro Town Attorney did provide the BOCC with a response on the question of liability associated with excavation and blasting on the proposed site.

- C) 120 Brewer Lane, the Butler property. The Carrboro staff will provide requested information on the existing permit limits as requested.

At the November 5, 3013 meeting, based on the information received from the Town of Carrboro and staff recommendation, the BOCC took the following actions:

- 1) Eliminated from further consideration 1128 Hillsborough Road and 401 Fidelity Street from further consideration for Southern Branch Library.
- 2). Directed staff to conduct further Phase 1 Site Criteria Analysis for 120 Brewer Lane and return to Board by January 24, 2014. During this period the Orange County staff will engage professional services to study technical and environmental assessments (planning/zoning, jurisdictional process, etc.), environmental sustainability, and cost-benefit analysis.

# 911/EMS ASSESSMENT UPDATE OCTOBER 3, 2013

Presented during the joint Orange County BOCC/Chiefs meeting

# ACRONYMS

- ALS – Advanced Life Support (Intermediate / Paramedic)
- AVL – Automatic Vehicle Location
- BLS – Basic Life Support (Medical Responder / EMT)
- EMD – Emergency Medical Dispatch
  - Alpha-Bravo (BLS) and Charlie-Delta-Echo (ALS)
- EMS – Emergency Medical Service
- OCES – Orange County Emergency Services
- QA – Quality Audit and Improvement
- QRV – Quick Response Vehicle
- SORS – South Orange Rescue Squad
- VHF – Very High Frequency
- VIPER – Voice Interoperability Plan for Emergency Responders

# EMS



# EMS STATISTICS

- Call Volume Comparison By Year
  - 2013 through 2<sup>nd</sup> Quarter = 6,384 (projected ~ 13k)
  - 2012 = 13,445
  - 2011 = 10,719
- Average Response Time Comparison By Year (Chute + Travel)
  - 2013 through 2<sup>nd</sup> Quarter (1:02 + 8:43) = 9:45
  - 2012 (1:17 + 9:13) = 10:30
  - 2011 (1:16 + 9:30) = 10:46

# EMS RECOMMENDATIONS

- R-1 Adjust M-5 and M-8 Coverage Hours (complete)
  - Based on recent geographic call data (North/South)
    - M-5 coverage remained 6am-6pm (unchanged)
    - M-8 coverage changed to 6pm-6am
- R-2 Add additional ambulance 9am-9pm (complete)
  - M-9 added 8am-8pm based on recent geographical call data

# EMS RECOMMENDATIONS

- R-3a&b Use SORS for BLS and bring on BLS ambulance (in-process)
  - EMD data did not support implementation
  - Re-visiting initiative to utilize SORS from 6pm-6am for BLS calls with EMS supervisor "chasing" calls. This accomplishes both recommendations.
    - If Alpha or Bravo turn into something more serious, a Paramedic will be there to provide ALS patient care

# EMS RECOMMENDATIONS

- R-4 Assess Fire Department capabilities for First Responder (complete)
  - Fire Departments have been providing Medical First Responder care
- R-5a Implement Fire Department First Responder Initiative (complete)
  - Fire Departments are providing Medical First Responder care
- R-5b QRV Initiative (not-applicable)
  - Offered as an alternate recommendation to R-5a

# EMS RECOMMENDATIONS

- R-6 Staff & Equip six (6) ALS ambulances (in-process)
  - OCES budgets for one new (1) ambulance each year inclusive of staff and equipment
  - Monitoring effectiveness of program each year
  - Intent is to not over-purchase or over-staff
    - Call volume and response times drive units and staffing

# EMS RECOMMENDATIONS

- R-7 Hire Paramedic Level Shift Supervisor 24/7 (in-process)
  - 13/14 budget approval for 4 Assistant Supervisors in January, 2014
    - 14/15 budget request will move the Asst. Supervisors to Supervisors
    - This tiered approach enables the Asst. Supervisors to be mentored for one year before being released
- R-8 Prepare a space needs assessment (in-process)
  - Selection committee chose Stewart Cooper Newell for award (10/1/13)
  - Staff meeting with firm the week of 10/7/13 or 10/14/13 to begin space needs assessment

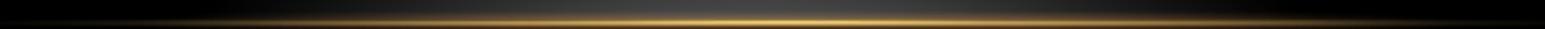
# EMS RECOMMENDATIONS

- R-9 Identify 9 strategic locations for future EMS base (in-process)
  - As part of Stewart Cooper Newell discussions
  - Co-location with existing Fire Departments
    - Orange Rural
    - Orange Grove
    - Carrboro
    - New Hope
    - Chapel Hill (potential future co-location/co-build)

# EMS RECOMMENDATIONS

- R-10 Obtain sites for development (not started)
  - Based on outcome of R-8 and R-11
- R-11 Procure EMS planning and design services (complete)
  - Selection committee chose Stewart Cooper Newell for award (10/1/13)
  - Staff meeting with firm the week of 10/7/13 or 10/14/13 to begin space needs assessment
- R-12 Advertise, bid, construct EMS facilities (not started)
  - Based on outcome of R-8, R-10 and R-11

9-1-1



# 9-1-1 COMMUNICATIONS STATISTICS<sup>13</sup>

- Call Volume Comparison By Year
  - 2013 through 2<sup>nd</sup> Quarter
    - Incoming 911+ Admin (47,153 + 39,854) = 87,007
    - Average Dispatch Time = 1:25 (1:11 non-EMD and 1:38 EMD)
  - 2012
    - Incoming 911+ Admin (98,735 + 84,741) = 183,476
    - Average Dispatch Time = 1:52 (1:10 non-EMD and 1:53 EMD)
  - 2011
    - Incoming 911+ Admin (86,800 + 158,782) = 245,582
    - Average Dispatch Time = 2:42 (no specific EMD data available)

# 9-1-1 RECOMMENDATIONS

- R-13 Hire full time Data Systems Manager (complete)
  - Craig Blackwood was promoted to Data Systems Manager
    - Mr. Blackwood retired 9/27/13
    - Position is being advertised internally. Expected to be filled by 10/18/13
- R-14 Hire full time Training/Quality Assurance Officer (complete)
  - Josh Robinson promoted from Telecommunicator to Training/QA Officer

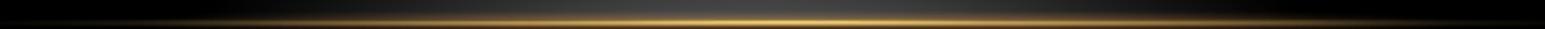
# 9-1-1 RECOMMENDATIONS

- R-15 Hire additional Training/QA Officer (in-process)
  - 13/14 budget approved to hire in January, 2014
- R-16 & 17 Hire Telecommunicator positions (in-process/on-going)
  - 13/14 budget approved to hire four (4) new Telecommunicators in January, 2014
  - Developing new initiative to fill vacant Telecommunicator positions

# 9-1-1 RECOMMENDATIONS

- R-18 Purchase AVL hardware for new EMS vehicles (complete)
  - All units outfitted with AVL
  - All new units will be outfitted with AVL
- R-19 Provide informational meetings with emergency responders to share new software capabilities (in-process)
  - 9-1-1 Users Group re-activated
    - Members of each response organization are represented
  - Information shared during Chiefs Association meeting

QUESTIONS OR COMMENTS?



# VIPER SITE COVERAGE/TOWERS DRAFT REPORT

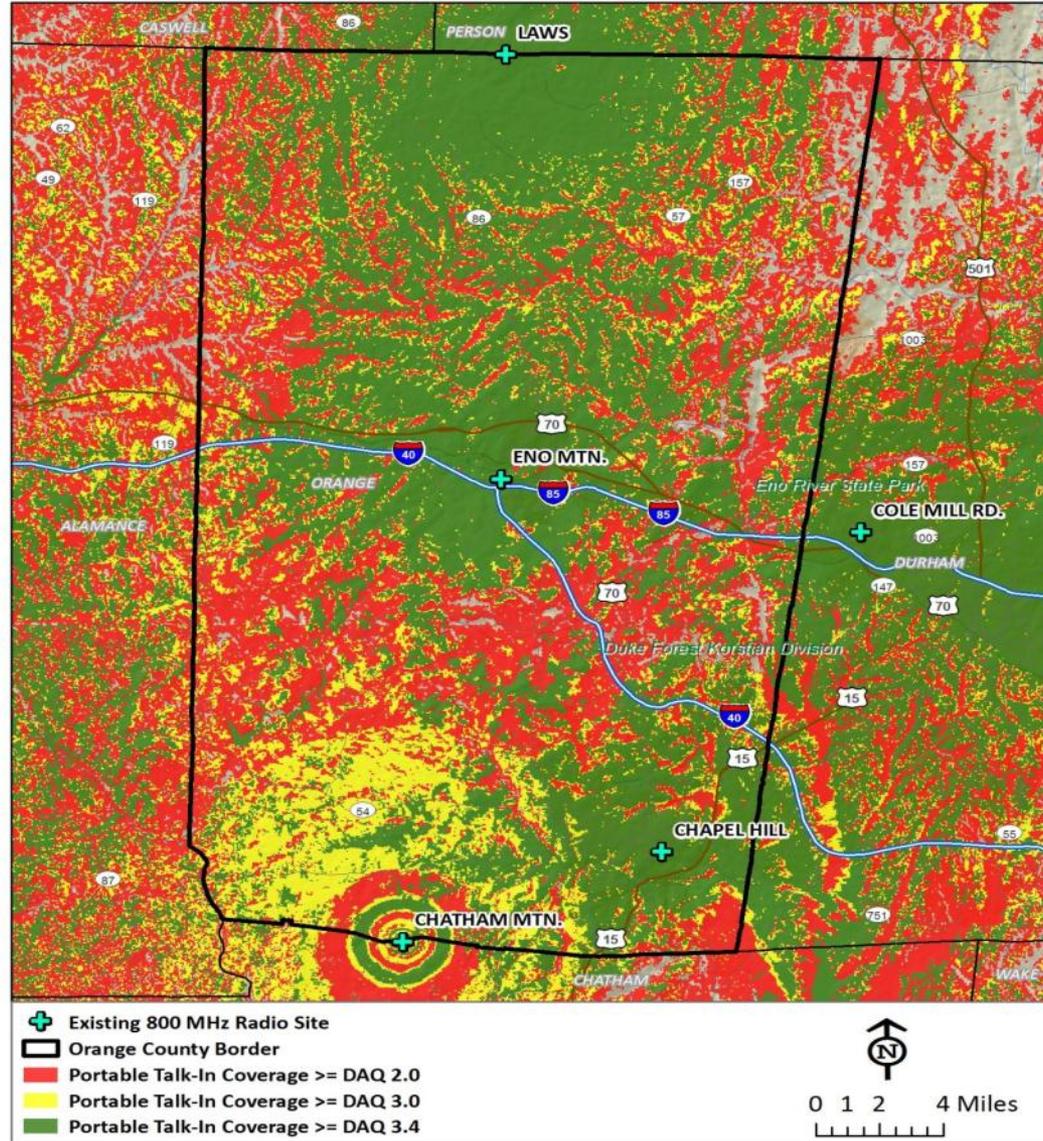
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OCTOBER 3, 2013

Presented during the joint Orange County BOCC/Chiefs meeting

# CURRENT VIPER "TALK-IN"

Orange County, NC - Existing VIPER Coverage  
800 MHz Analog Coverage; Portable Talk-In (Radio to Repeater) at Various Quality Levels

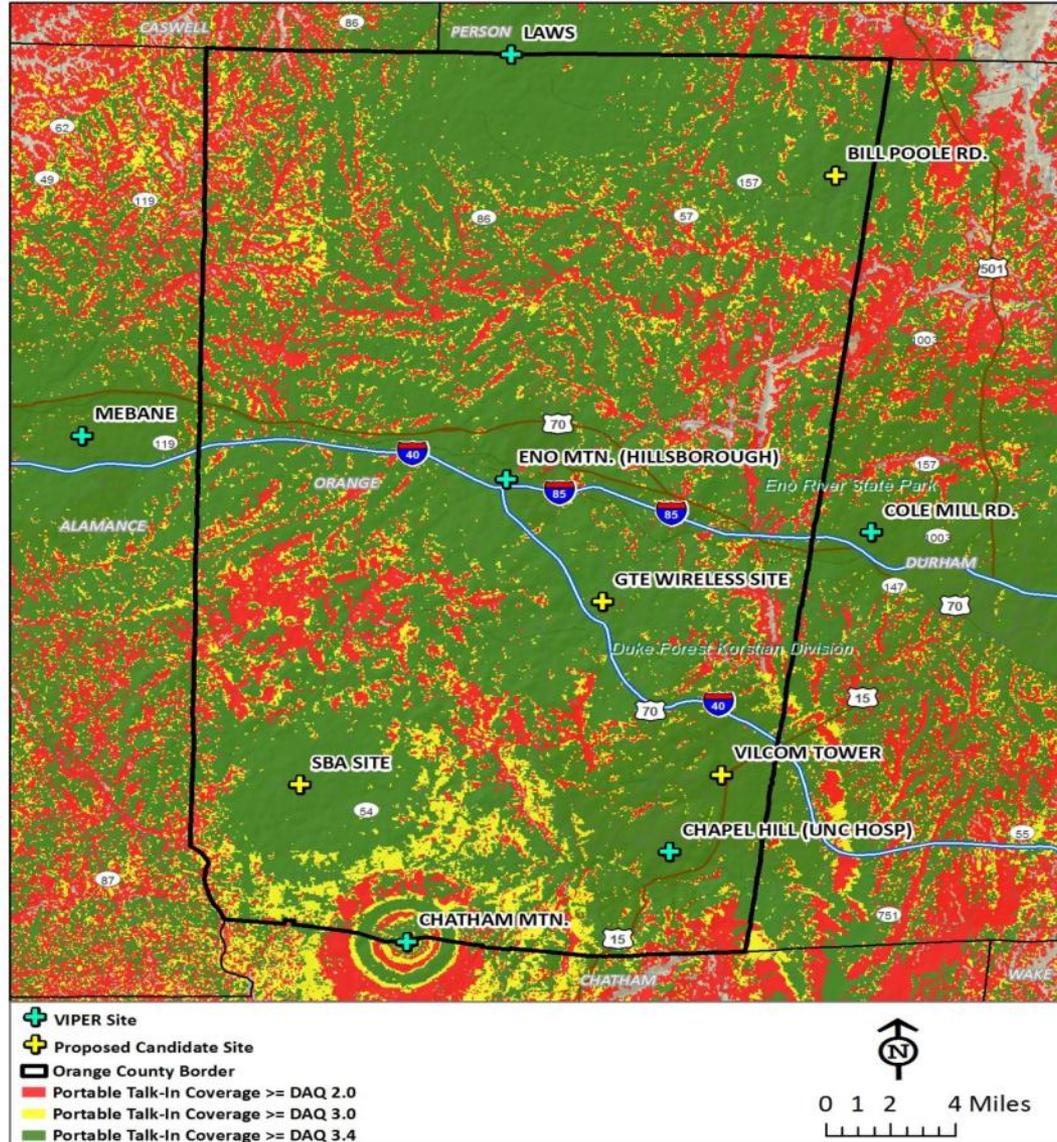


# PROPOSED VIPER SITES

- Four (4) additional sites were selected to improve VIPER coverage within the County. These four sites are existing sites, and colocation was to be investigated.
  - Northeast portion of County – Caldwell area – existing guyed tower
    - 7444 Bill Poole Road – AT&T Wireless
  - South-Central portion of County – Chapel Hill – existing monopole
    - 1403 New Hope Trace – GTE Wireless
  - Southwest portion of County – Chapel Hill – existing monopole
    - 4900 NC 54 West - SBA
  - Southeast portion of County – Chapel Hill – existing monopole
    - E. Franklin St – WCHL or New Site Near the Mall

# PROPOSED "TALK-IN"

Orange County, NC - Predicted coverage from VIPER sites and Candidate sites  
800 MHz Analog Coverage; Portable Talk-In (Radio to Repeater) at Various Quality Levels

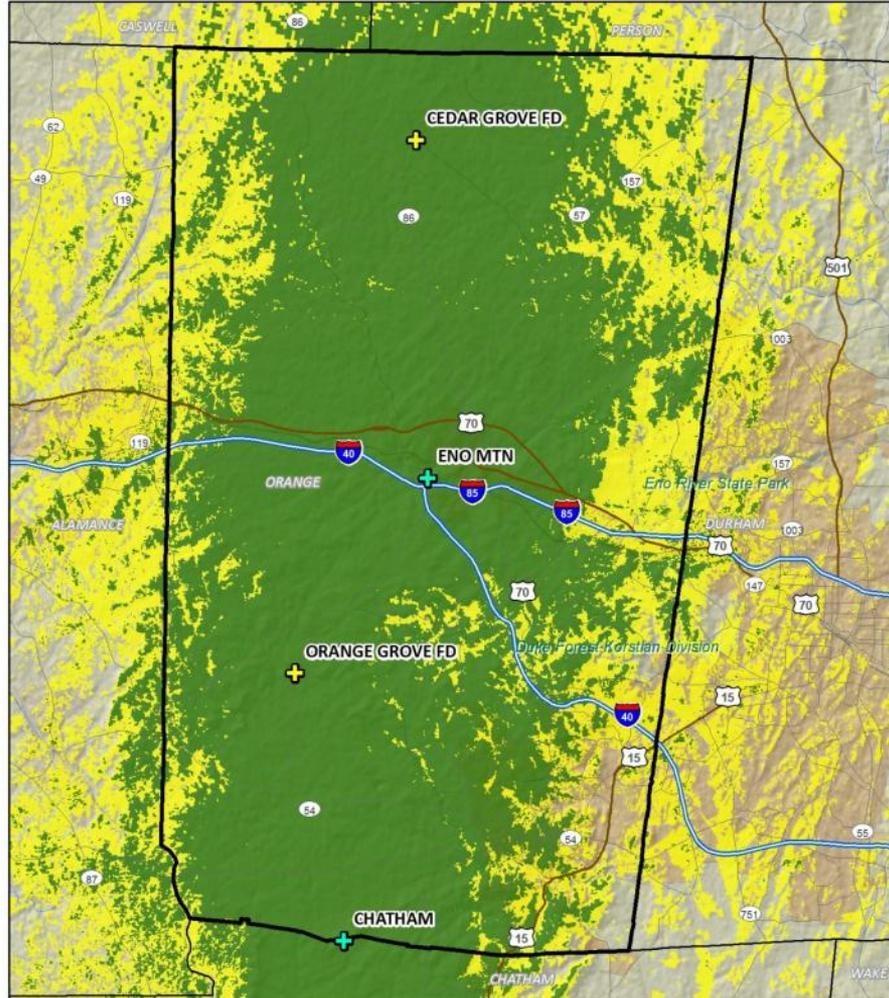


# PROPOSED VHF PAGING SITES

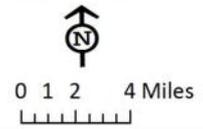
- Two (2) additional Fire Paging sites were selected to improve coverage within the County. They are:
  - North portion of County – Cedar Grove Fire Station
    - 720 Hawkins Road – Existing Tower
  - Southwest portion of County – Orange Grove Fire Station
    - 6800 Orange Grove Road – Requires new tower

# PROPOSED VHF PAGING

Orange County, NC - Predicted coverage of four VHF paging sites  
VHF Narrowband Paging Coverage; Pager modeled at hip-height



- Existing VHF Paging Sites
- New VHF Paging Sites
- Orange County Border
- On-Street Coverage
- In 12-dB Building Coverage



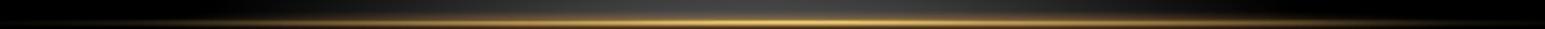
# SHORT STORY

- Four (4) tower sites recommended for VIPER coverage
- One (1) new tower site for VHF coverage
- One (1) existing tower site for VHF coverage
- Cost Example (GTE Wireless)
  - \$1,000 credit application fee
  - \$2,000 structural analysis
  - \$2,000 inspection fee (if construction installation fee is waived)
  - \$1,500 Closeout documentation fee
  - \$2,500 per month, rental fee with 5 year initial term
    - Four (4) automatic renewal 5 year terms at 3% escalation

# NEXT STEPS

1. Present the final report to the BOCC during the January, 2014 work session
2. Develop a project management plan and implementation schedule
3. Incorporate the recommendations of the study into the Capital Investment Plan

QUESTIONS OR COMMENTS?



**INFORMATIONAL PAPER**  
**LOCALLY OWNED AND OPERATED TRUNKED 700MHz RADIO SYSTEM**

## BACKGROUND

Over the past three months, Orange County Emergency Services has had discussions with the Sheriff, Orange County Animal Services, Orange County Asset Management Services, Orange County Planning, Orange County Volunteer Fire Departments, Orange County Schools, the Town of Chapel Hill (Police, Fire, Transit, Parks, Public Works, etc.), the Town of Carrboro (Police and Fire), and Chapel Hill/Carrboro Schools, regarding their opinion on the coverage and usage of the North Carolina Voice Interoperability Plan for Emergency Responders (VIPER).

Concerns expressed over the existing State-owned VIPER System include:

- Coverage is not adequate throughout the County. There are many dead spots where transmission from a portable (hand-held) radio is not possible, even outside of a building.
- Coverage lacks of building penetration throughout the County. This is a severe safety problem for all responder when units inside buildings cannot transmit or receive messages.
- The State limits on radio assignments outside public safety. For Orange County to have true interoperability, we need to be able to directly talk with public works, transit, schools, animal control, inspectors, etc. Currently, the State-owned VIPER system will not allow these users on the system.
- There is no local control over the system, its capabilities, its use, or even how many radios can be assigned into it. We are dependent on the State to issue radio IDs (each radio must have unique radio ID to work on the system, much like a cell phone). For the past year, the State has advised that they are out of IDs and cannot issue any more.
- Routine radio programming and maintenance must be performed through State approved vendors or technicians, versus at the local level. This can be costly and time consuming.

Orange County recently utilized the consultant company Federal Engineering to conduct a VIPER radio coverage study throughout Orange County. The study looked at adding tower sites for coverage, as well as upgrade channel capacity to create a more balanced system (the current system has 5 channels north and 8 channels south). This unbalanced system creates busy “bonks” where users cannot transmit during peak periods. The draft VIPER radio study report was presented to the Board of County Commissioners on October 3, 2013 and showed that there was still a substantial coverage issue even with the recommended modifications.

To support the anticipated outcome of this study, the County has identified approximately \$3.5 million dollars in the Capital Investment Program (CIP) to build towers and add channel capacity to help resolve these issues.

## PROPOSAL

Enhancing the State-owned VIPER system for coverage and channel capacity will not enable Orange County to achieve true interoperability because those agencies that the State considers non-emergency (transit, public works, schools, inspections, etc.) will not be allowed to use the system.

With supplemental funding in addition to the current CIP, Orange County could convert to a locally owned and controlled Trunked 700MHz system for true interoperability. The system would be designed to provide significantly better coverage, more user capability, and the ability to implement the use of data and GPS for increased safety options for all of the users. It would also be completely compatible with the State's VIPER system for redundancy and resiliency (users could still use statewide mutual aid TalkGroups).

An inter-local government agreement with the City of Durham would allow us to use their P25 (digital) radio controller to operate our system seamlessly, saving about \$2 million dollars of initial investment. Over the next 3-5 years, Orange County would purchase and install our own P25 controller, and offer a link to Durham so we both would have redundant P25 radio controllers. If one system went down, the other would continue to operate the system, and vice versa.

Advantages to a locally owned and operated system;

- Achieve true interoperability by expanding the system to include not only all public safety agencies, but also other services active in emergency and disaster response and recovery such as Transit, Public Works, Parks & Recreation, Inspections, Schools and others. The system would enable all local agencies capable of communicating with each other during planned events, emergencies and disasters.
- The local system uses the same radios and towers as the VIPER system. There is no additional cost of having to replace any existing equipment. We would keep the VIPER system programmed into the radios for statewide interoperability with mutual aid partners.
- The system could be a cost sharing partnership between Orange County and three (3) municipalities, helping to keep costs at a minimum. The City of Durham has expressed willingness to partner locally, potentially reducing implementation cost for all partners.
- The system would be designed to provide better building penetration and channel capacity to eliminate busy "bonks". It would also be designed to enable the use of several safety options such as text/data and GPS location.

## MEMORANDUM

To: Michael Talbert  
Interim Orange County Manager

From: Steve Brantley  
Director, Orange County Economic Development

Date: November 8, 2013

Subj: Assembly of Governments Meeting on Nov. 21, 2013  
Draft Agenda's #6 Information Item (Morinaga America Foods, Inc.)

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**MORINAGA AMERICA FOODS, INC.**

Our community celebrated significant economic development success on Sept. 3<sup>rd</sup>, 2013 when Orange County, the City of Mebane and the State of North Carolina jointly announced that Morinaga America Foods, Inc. has selected a 21-acre light industrial site in our Buckhorn Economic Development District. The Company will initially build a 98,000 sq. ft. candy production facility to make the fruit chewable candy called "Hi-Chew", employ 90 – 120 workers, and invest up to \$48 million. The project will pay its employees an average annual salary of \$38,000 and contribute an annual payroll of \$3.4 million to the community. Recruitment of this 114-year old major Japanese confectionary company over the recent 18 months involved more than 12 company visits, and a joint recruitment effort by Orange County, the City of Mebane and the State during a very competitive statewide and national site search by Morinaga.

Investment:	\$34 - \$48 million
Employment:	90 - 120 jobs
Avg. Annual Salary:	\$37,969
Annual Payroll:	\$3.4 million (includes Health Insurance & Benefits)
Facility Size:	98,000 sq. ft.
Type of Operation:	Production of "Hi-Chew" candy
Site Size:	21 Acres (Buckhorn Economic Development District)

Morinaga America Foods, Inc. will begin site work in March, 2014 and construct the initial 98,000 sq. ft. facility by year-end. Machinery installation will occupy the first half of 2015, leading up to a completed operation by June or July, 2015. The 21-acre site is located in the Buckhorn Economic Development District and is large enough to accommodate one or more additional plant expansions in the future. There are signs the Company could eventually grow with additional phases of similar size.

With this planned capital investment, Morinaga will become Orange County's 3rd largest corporate tax payer (behind the two utilities Duke Energy and Piedmont EMC), and is our largest manufacturing related taxpayer.

Senior leadership from Morinaga have made recent visits to the area, to include Masao Hoshino (President of Morinaga America, Inc.) on October 8th and 15th, and most recently, President Toru Arai (President of parent firm Morinaga & Co., Ltd., from Tokyo) who returned on Nov. 8th. Infrastructure and related development issues are now ongoing to support the project, to include:

- Public Hearings have now been completed to approve local financial incentives by the City of Mebane (Oct. 7<sup>th</sup>) and Orange County (Oct. 15<sup>th</sup>). These inducement agreements are “performance-based” and require the Company to show proof of creating jobs and investment, before any local incentive payments will be made.
- City of Mebane voted following a Nov. 4<sup>th</sup> Public Hearing to annex and rezone the property.
- Orange County’s application process with the North Carolina Department of Commerce for a Community Development Block Grant (CDBG) is now underway to receive reimbursement for 75% of infrastructure development costs associated with extending water and sewer lines to the Morinaga site, and designing and engineering the 3,500’ access road to be built by NCDOT.
- Sewer to the site will connect to the new backbone main sewer line that is currently under construction between Mattress Factory Road and Ben Wilson Road. This utility work will connect the Morinaga project to Orange County’s \$4 million expenditure from the quarter cent sales tax to fund infrastructure throughout the economic development districts.

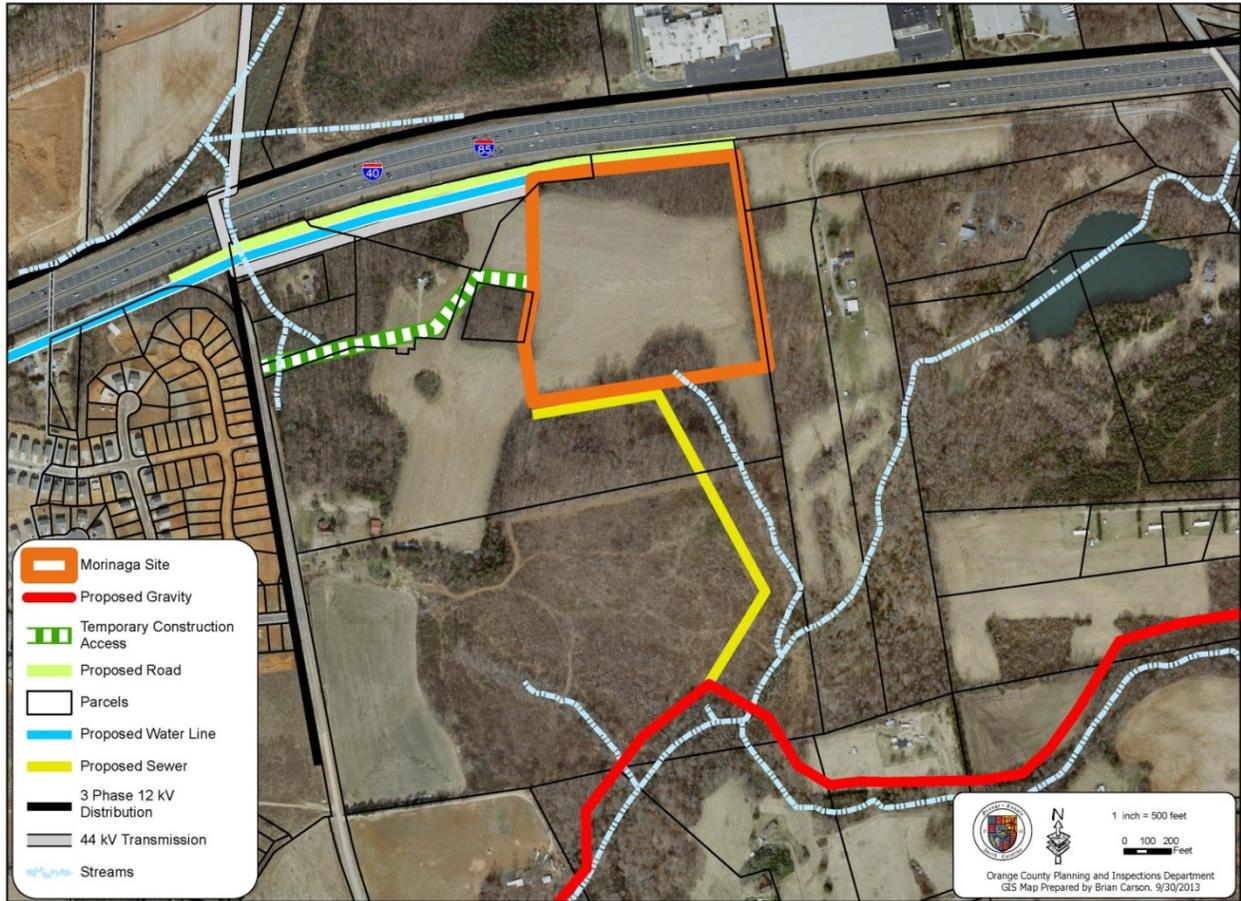
The successful recruitment of this new business is a result of the Orange County Board of Commissioners’ and our residents’ efforts over the past 2 – 3 years to help diversify the local economy by:

- Passage of the ¼ cent sales tax referendum in Nov. 2011, which now provides funding to pursue economic development, to include developing the necessary utility infrastructure throughout the County’s 3 economic development districts.
- The BOCC’s rezoning of over 700 acres of land in the 3 economic development districts to create compatible zoning and land use applications that appeal to business prospects.
- The BOCC support of an inducement agreement policy, and interest to meet with potential investment prospects.
- Increased efforts by the local municipalities and their elected officials and staff to pursue economic development by becoming more competitive in their approach to a more efficient permitting and review process, marketing efforts and product development.

Aerial View of Morinaga America Foods, Inc. Site:



### Site and Proposed Infrastructure for Morinaga Facility (Conceptual Layout)





Department of Environment,  
Agriculture, Parks & Recreation

To: Orange County Assembly of Governments

From: David Stancil, Director, Department of Environment, Agriculture, Parks  
and Recreation

Date: November 13, 2013

Re: Potential Orange County Fair

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At the Board of Commissioners' goal-setting retreat for 2013, the possibility of an Orange County Fair was discussed. As outlined, a fair might serve as a community-building event to bring together residents from different parts of the county for fun, education, local foods and music, among other activities.

In June of this year, the Board of Commissioners appointed a County Fair Working Group headed by Commissioners Mark Dorosin and Renee Price, Interim County Manager Michael Talbert and several department heads. Between July and November, this group worked to examine potential locations, timeframes, conceptual budget estimates and possible activities and amenities of a county fair.

A community information session was held October 30 and attended by 32 persons, many representing organizations and groups with an interest in a fair or representing other types of events. Attached is a one-page summary "discussion starter" document that was provided at the meeting with general information about the basic concepts of a potential county fair and the proposed themes.

A number of ideas and comments were received at this session, and through over 460 brief surveys online and at the info session. The Board of County Commissioners received the report from the Working Group on November 12 and also had a number of questions and ideas.

The Working Group was asked to return with more detailed ideas, information and answers to questions posed at the Board's January 23 meeting.

## Some Initial Thoughts on a Possible Orange County Fair

At their 2013 annual retreat, the Board of County Commissioners discussed the idea of developing an Orange County Fair. A county fair could provide an opportunity to celebrate the many unique historical, social, cultural and creative aspects of Orange County. In addition to an opportunity for all residents to connect together as a county, a fair can become an economic development resource that can draw visitors from across the region.

The Board of Commissioners established a preliminary working group to conduct initial research into the feasibility, opportunity, and potential benefits and costs of a county fair. This preliminary group includes Commissioners Mark Dorosin and Renee Price, county staff from the parks and recreation, asset management, and economic development departments, as well as representatives from the Visitor's Bureau and the county extension service. The working group met several times over the summer, and will report back to the Board on November 12.

The working group has made some initial progress, but no report to the Board could be complete without direct input from the community, including whether they'd like to have a fair, what a fair should look like, and the best and most practical ways to make our collective vision a reality. **Which is why we are here tonight.**

Here are some specific ideas that have come out of the working group for discussion:

- For its initial run, the fair would last at least two days, Friday and Saturday. One goal is to encourage local schools to take field trips to the fair during the day on Friday.
- The working group initially looked at holding the county fair in the fall, likely in late September. However, in the interest of possibly launching the fair sooner than Fall 2015, the working group also is considering the possibility of launching the fair in Spring 2015, ideally in late April.
- The working group looked at a number of possible sites, but consensus quickly emerged around the county-owned Blackwood Farm park site on NC 86 as the most viable location. Blackwood Farm was successfully used for the county's 250th anniversary celebration, is centrally located, easily accessible, and big enough to accommodate a fair. While the site will likely need some infrastructure improvements, many of those are already on the county's plan for development of the park.
- The working group suggested five primary Orange County themes to celebrate with the fair: 1) agriculture, local food and restaurants, 2) the arts and local artists, 3) Orange County's diverse history, 4) schools, education, and youth, and 5) live music. In addition, we hope to have some attractions for children, including traditional and non-traditional rides and games.