

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

**QUARTERLY PUBLIC HEARING AGENDA**  
**September 8, 2015**  
**7:00 P.M.**  
**Richard Whitted Meeting Facility**  
**300 West Tryon Street**  
**Hillsborough, NC 27278**

**NOTE: Information is available on-line at the “Meeting Agendas” link at: <http://www.orangecountync.gov/> and also in the Planning Department or the County Clerk’s Office**

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

**A. OPENING REMARKS FROM THE CHAIR**

**B. PUBLIC CHARGE**

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

**C. PUBLIC HEARING ITEMS**

- 1. Zoning Atlas Amendment** – To review an application requesting the rezoning of an approximately 9 acre parcel of property located at 4915 Hillsborough Road within the Eno Township **from** Economic Development Eno Lower Intensity (EDE-1), Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District **to** Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District.
- 2. Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO to revise the existing public hearing process for Comprehensive Plan-, UDO-, and Zoning Atlas-related items/amendments.
- 3. Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO regarding recreational land uses, including shooting ranges.

**D. ADJOURNMENT OF PUBLIC HEARING**

**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: September 8, 2015

Action Agenda  
Item No.   C.1  

**SUBJECT:** Zoning Atlas Amendment - Jacobs Glass Rezoning

**DEPARTMENT:** Planning and Inspections

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

Yes

**ATTACHMENTS:**

1. Zoning Application Packet
2. Vicinity Map
3. Notification Materials and Certification

**INFORMATION CONTACT:**

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

**PURPOSE:** To hold a public hearing on an owner-initiated general use rezoning petition in accordance with the provisions of Section 2.8 of the Unified Development Ordinance (UDO).

**BACKGROUND:** On April 24, 2015 an application was submitted by, LR Jacobs LLC, seeking to rezone an approximately 7.8 acres of a 9.8 acre parcel of property located at 4915 Hillsborough Road:

**FROM:** Economic Development Eno Lower Intensity (EDE-1), Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

**TO:** Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

The property is currently split zoned with approximately 2 acres zoned EDE-2 and 7.8 acres zoned EDE-1. The portion of property zoned EDE-2 is currently developed and used to support a glass manufacturing and installation business, specifically Jacobs Glass. The 7.8 acre portion of property was recently purchased from Duke University and recombined with the parcel.

Pertinent facts of the application include the following:

Applicant: LR Jacobs LLC  
Jacobs Glass  
4915 Hillsborough Road  
Durham, NC 27705

Agent: Chad Abbot, PE  
Summit Consultants  
504 Meadowview Drive  
Hillsborough, North Carolina 27278-8551

Rezoning Location: The southeastern quadrant of the NC 751 and US70E / Hillsborough Road intersection; Adjacent to the Orange County Durham County boundary line; and north of the railroad.

Please see the map contained within Attachment 2 for additional information.

Parcel Information:

- a. **PIN** – 0803-30-5174 (Legally described as “Lot B” of the Recombination Plat recorded within Plat Book 114 Page 65 of the Orange County Registrar of Deeds office).
- b. **Size of Parcel** – 9.87 acres (Rezoning area is a 7.7 acre portion of the total parcel).
- c. **Current Zoning of Parcel** – Economic Development Eno – Lower Intensity (EDE-1); Economic Development District Higher Intensity (EDE-2); Lower Eno Protected Watershed Protection Overlay District; Major Transportation Corridor Overlay District (MTC).
- d. **Township** -- Eno
- e. **Future Land Use Map Designation** – Economic Development – Transition; Resource Protection.
- f. **Growth Management System Designation** – Urban.
- g. **Existing Conditions** – As previously indicated approximately 2 acres of the property is already developed as a glass manufacturing and installation business.

The remaining land area is currently undeveloped with existing vegetation and varying topography.

The applicant purchased the 7.8 acres proposed for this rezoning from Duke University when it was designated as surplus property.

- h. **Access** – An existing driveway off of US Highway 70 East. There is a deed restriction prohibiting vehicular ingress/egress from NC Highway 751 (western property line).

Surrounding Land Uses:

- a. **North** – US Highway 70 East, several properties approximately 1 acre in size zoned EDE-1;
- b. **South** – Southern Railroad right-of-way, property owned by Duke University, approximately 400 acres in area zoned Rural Residential (R-1);
- c. **East** – County line (Durham County’s planning jurisdiction);
- d. **West** – NC Highway 751, property ranging in size from 2 to 5 acres in area zoned EDE-1.

Proposal: As detailed within Attachment 1, the purpose of the amendment is to extend the existing EDE-2 zoning throughout the entire property to accommodate a proposed expansion of the existing window glass and frame assembly business. The use is permitted as a “by right”

within the EDE-2 general use zoning district in accordance with Section 5.2 *Table of Permitted Uses* of the UDO. Such a land use, however, is not permitted within the EDE-1 general use district.

Currently, the EDE-1 and EDE-2 zoning district boundaries do not coincide with existing lot lines creating problems for the property owner with respect to compliance with established landscape standards as well as limiting the ability to integrate supporting uses. Please refer to the vicinity map within Attachment 2 for additional detail. Approval of the zoning atlas amendment would align the EDE-2 zoning district boundaries with the boundaries of the recorded lot and allow for the proposed expansion.

It should be noted that further development of the property would be required to comply with established land use buffers, including the 100 ft. perimeter EDD buffer required under Section 6.8.12 (C) (1) of the UDO along the eastern property line, as well as applicable setbacks/land use buffers from NC 751 and the existing railroad right-of-way. Approval of the zoning atlas amendment would not eliminate the applicant's responsibility to apply for a Zoning Compliance Permit to allow for the expansion as required within Section 2.5 of the UDO.

Staff Analysis: In accordance with Section 2.8 of the UDO, the Planning Director is required to 'cause an analysis to be made of the application' and pass that analysis on the reviewing body. In that respect the Planning Director states the following:

1. The application has been deemed complete in accordance with the requirements of Section 2.8 of the UDO.
2. The property is of sufficient size, and location, to be rezoned to EDE-2.
3. The request will allow for the logical extension of the EDE-2 zoning district.
4. The proposal is consistent with the Orange County 2030 Comprehensive Plan Future Land Use Map (FLUM) and the Eno EDD Small Area Plan.
5. The site has no environmental encumbrances or significant features. Note, however, the site was designated as "Resource Protection" on the Future Land Use Map because it had been a portion of Duke Forest. It was sold by the University because it does not contain any resources value and is physically separated from the remainder of Duke Forest properties by the Southern Railroad.
6. The proposed zoning would complement the existing adjacent uses.
7. Staff is supportive of eliminating the split zoning of the property, which creates zoning, land use, enforcement and permitting difficulties. The request is also consistent with the adopted Comprehensive Plan and Eno EDD Small Area Plan.

Notification Procedural Requirements: In accordance with Section 2.8.7 of the UDO, the public hearing for this item was advertised consistent with the requirements of the UDO. Legal ads were placed in two newspapers of general circulation in the County for two (2) successive weeks; notices were mailed to property owners within 500-feet of affected properties; and a sign was posted on the US Highway 70 frontage of the affected property in accordance with applicable regulations. Attachment 3 includes the following:

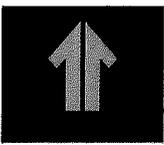
- A copy of notification letters for property owners within 500-feet of subject property; and
- An affidavit attesting to the mailing of the notification materials.

**FINANCIAL IMPACT:** This rezoning request has been reviewed by County departments who have determined that the approval or denial of the request would not create the need for additional funding for the provision of County services.

**SOCIAL JUSTICE IMPACT:** There is no Orange County Social Justice Goal impact associated with this item.

**RECOMMENDATION(S):** The Manager and Planning Director recommend that the Board:

1. Receive the proposal to amend the Zoning Atlas;
2. Conduct the Public Hearing and accept public, BOCC, and Planning Board comment on the proposed amendment;
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the Board of County Commissioners in time for the **November 5, 2015** BOCC regular meeting; and
4. Adjourn the public hearing until **November 5, 2015** in order to receive and accept the Planning Board's recommendation and any submitted written comments.



**Letter of Transmittal**

TO Orange County Planning Department  
131 West Margaret Lane  
Hillsborough, NC 27278

DATE 04/24/2015	PROJ. NO. 14-0233
RE: Jacob's Glass - Rezoning Application Submittal	

ATTN Michael Harvey

**WE ARE SENDING YOU:**

- Attached
- Under Separate Cover
- Transmitted Via Messenger
- Prints
- Reproducible
- Specifications
- Shop Drawings
- Copy of Letter
- Change Order
- \_\_\_\_\_

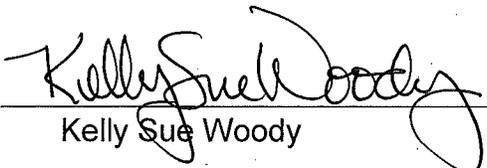
COPIES	DRAWING	DATE	DESCRIPTION
1			\$3,690 Check# 1306 (Rezoning Fee)
1			Rezoning Application
1			Narrative
1			Property Description (DB5922 PG72 & PB114 PG65)
1			GIS Zoning Map
1			GIS Aerial Photo Map
1			GIS 500' Buffer Map & Property List
1			Excel File (500' Buffer Property List) - <i>Sent via Email</i>

**TRANSMITTED:**

- For Approval
- As Requested
- For Your Use
- For Review and Comment

COMMENTS

COPY TO \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE:   
Kelly Sue Woody



**Orange County Planning and Inspections Department**

**APPLICATION FOR  
ZONING ATLAS AMENDMENT  
GENERAL USE REZONING REQUEST**

**APPLICANT INFORMATION:**

Date: 4/24/2015

Applicant: Summit Design & Engineering

Phone: (919) 732-3883

Address: c/o Chad E. Abbott  
504 Meadowland Drive  
Hillsborough, NC 27278

Cell Phone: \_\_\_\_\_

E-mail: chad.abbott@summitde.net  
kellysue.woody@summitde.net

**PROPERTY SUBJECT TO REQUEST:**

Parcel Identification Number (PIN): 0803-30-5174

Address of property: 4915 Hillsborough Road Owner of property: L R Jacobs LLC

Current Zoning Designation: EDE-2 & EDE-1 Requested Zoning Designation: EDE-2

**\*\* If Applicant/Owner are different people, include a signed, notarized, statement indicating that the owner has authorized the applicant to submit the request. In cases where there are multiple property owners, please attach an additional document containing their signatures authorizing the submission of the application or other legal documentation establishing the applicants right to file on their behalf. \*\***

**SUBMITTAL INFORMATION - Section 2.8.3 of the Unified Development Ordinance (UDO)**

- 1) A Map, at a legible scale, showing the property(s) subject to the request. A map may be procured at the Planning Department for a fee in accordance with the adopted Orange County Fee Schedule
- 2) A legal description of the property(s) proposed for rezoning
- 3) A list showing the names and addresses of all adjacent property owners within 500' feet of the subject property.
- 4) A detailed narrative denoting the following:
  - a. The alleged error in the Zoning Atlas (if any) that will be corrected by the proposed request.
  - b. The changed, or changing, conditions (if any) that makes the proposed amendment reasonable necessary to promote the public health, safety, and general welfare.
  - c. How the proposed amendment is consistent with, or carries out the intent and purpose of, the Orange County Comprehensive Plan,
- 5) In cases involving amendments to the Special Flood Hazard Area Overlay District, applicants shall supply the following additional information in accordance with Section 2.8.3 (G) of the UDO:
  - a. An elevation certificate with either an MT-1, MT-2, or MT-EZ (forms available through FEMA) or
  - b. A 'No-impact' analysis for a letter of map revision
- 6) The filing fee per the adopted Orange County fee schedule in affect as of the date of the application.

I (we), the undersigned, have been made aware of the process for the review and action associated with a UDO Zoning Atlas Amendment application and understand only completed applications, containing all information required by the Orange County UDO shall be reviewed and acted upon by the County. Further I (we) understand that any assistance I (we) may receive from County staff in preparing this application in no way guarantees a favorable recommendation by staff on the merits of this proposal nor does it guarantee an approval of the proposed atlas amendment by the County.

[Signature]  
Applicant

4/24/15  
Date:

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date:

**JACOB'S GLASS**  
**REZONING NARRATIVE**

**1. The alleged error in the Zoning Atlas (if any) that will be corrected by the proposed request.**

There is no alleged error in the Zoning Atlas.

**2. The changed, or changing, conditions (if any) that makes the proposed amendment reasonable necessary to promote the public health, safety, and general welfare.**

The existing Jacobs Glass Company recently acquired additional land behind their existing building and a recombination of the properties was conducted. The Parcel Identification Number for this site is 0803-30-5174, located at 4915 Hillsborough Road, Durham NC 27705 and is within the Orange County Planning Jurisdiction. The northern portion of the property is currently zoned EDE-2 and the southern portion (the recently acquired parcel) is currently zoned EDE-1. The owner is requesting a general rezoning so the entire property maybe EDE-2 and he can expand his business and use on said area. The existing condition of the area is undeveloped/vacant and fully wooded. No changes in the conditions or zoning of the site are anticipated to adversely impact the public health, safety, and general welfare.

**3. How the proposed amendment is consistent with, or carries out the intent and purpose of, the Orange County Comprehensive Plan:**

The Orange County Future Land Use Map shows this property as being in the Economic Development Transition area. Per the Orange County Comprehensive Plan, the Economic Development Transition area "Identifies areas in Transition areas of the County which have been specifically targeted for economic development activity consisting of light industrial, distribution, flex space, office, and service/retail uses. Such areas are located adjacent to interstate and major arterial highways, and subject to special design criteria and performance standards. The applied zoning district is ED (Economic Development)." Since the entire parcel is already within the ED district the amendment would only be revising the possible density of the site (from lower intensity non-residential uses to higher intensity non-residential – for a range of light industrial, distribution, retail, office, etc.).

2/2



20150319000049360 DEED  
Bk: RB5922 Pg: 72  
03/19/2015 09:28:29 AM 1/3

DML

FILED Mark Chilton  
Register of Deeds, Orange Co., NC  
Recording Fee: \$26.00  
NC Real Estate TX: \$480.00

(Handwritten initials)

Excise Tax (Orange Co.): \$480.00  
Excise Tax (Durham Co.): \$0.00 (See Exhibit A) A Portion of Durham Co. PIN: ~~0802-06-84-1419.SPL~~

B = Orange Co. PIN: 0802394949

Prepared by: StephensonLaw, LLP  
After recording, return to: StephensonLaw, LLP PO Box 1267, Cary, NC 27512  
Brief Description for Index: 6.74 acres (Orange Co.)  
0.96 acres (Durham Co.)

REC'D PIN: 080330 5174 mab

(This is one of two duplicate original instruments to facilitate the recording of these documents in Durham and Orange County)

**NORTH CAROLINA SPECIAL WARRANTY DEED**

THIS DEED is made this 13th day of March, 2015, by and between:

GRANTOR: Duke University, a North Carolina nonprofit corporation  
GRANTOR ADDRESS: 324 Blackwell Street, Suite 850, Durham, NC 27701

GRANTEE: LR Jacobs, LLC  
GRANTEE'S ADDRESS: 4915 Hillsborough Rd., Durham, NC 27705

(The designation of Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by the context.)

**WITNESSETH:**

THE GRANTOR, for a valuable consideration paid by the Grantee, the sufficiency and receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee, in fee simple, all that certain real property in Orange and Durham Counties, North Carolina described as follows:

**See Exhibit A attached hereto and hereby incorporated by reference.**

Said property does NOT include the primary residence of the Grantor.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 103, Page 303, Orange County Registry and Book 115, Page 231, Durham County Registry.



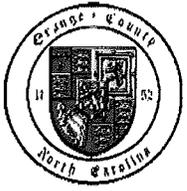
**Exhibit A**  
**Property Description**

LYING AND BEING in both Orange County, North Carolina and Durham County, North Carolina, and being more particularly described as follows:

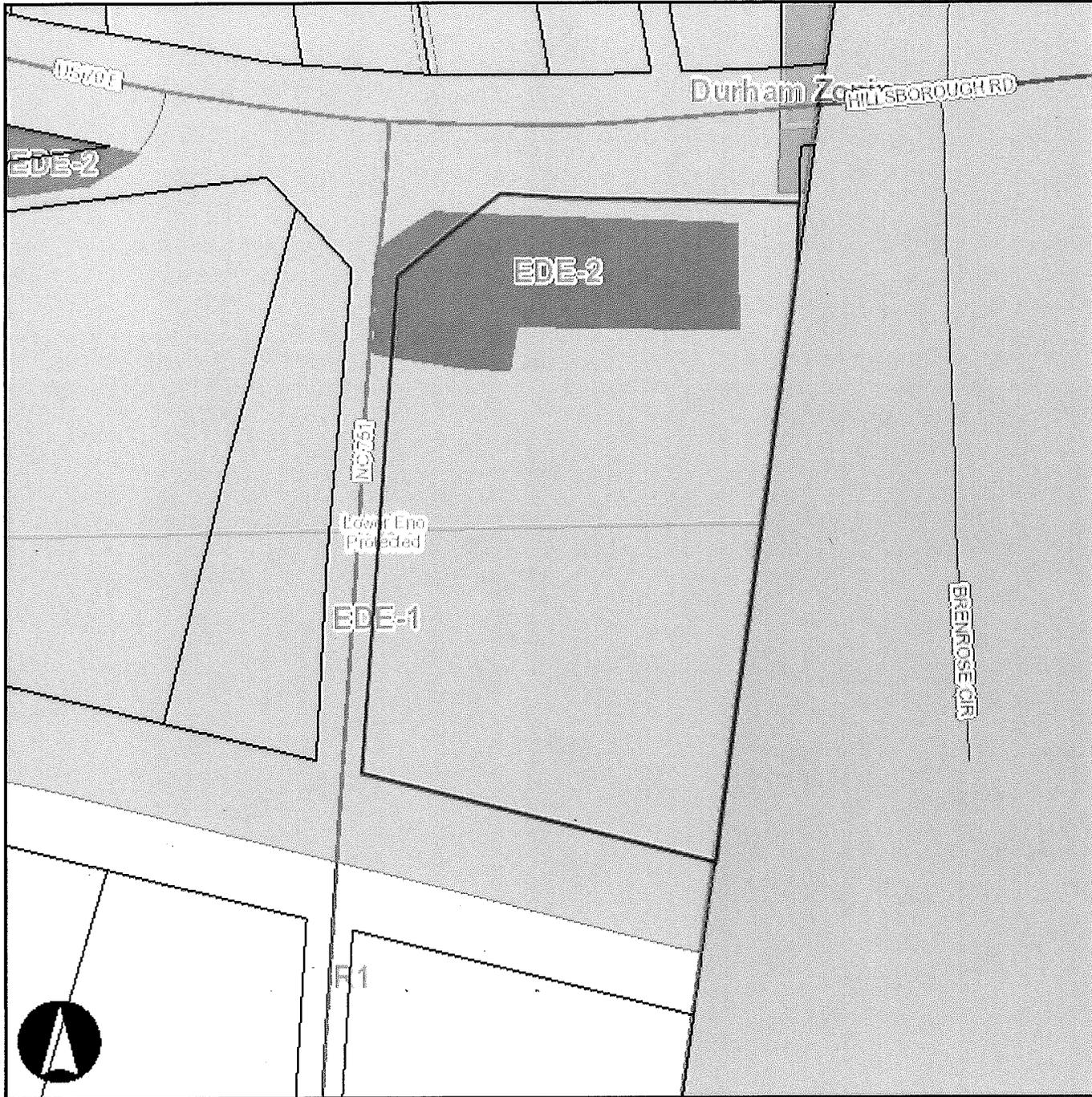
"Lot B", containing 7.70 acres, more or less, (6.74 acres lying and being in Orange County and .96 acres lying and being in Durham County), all as shown on plat by Summit Design and Engineering Services, entitled "Final Plat of Recombination for LR JACOBS, LLC", dated March 6, 2015, and recorded in Plat Book 114, Page 65, Orange County Registry and Plat Book 194, Page 18a, Durham County Registry, said recombination plat being incorporated by reference as if fully set out herein.

**NOTE:**

The greater portion of the subject property, with respect to value, is in Orange County and a Deed from Grantor to Grantee is also being recorded in Orange County. Accordingly, pursuant to Section 105-228.30(a) of North Carolina General Statutes, all of the excise tax for this transaction is being paid with the recoding of the Deed in Orange County.



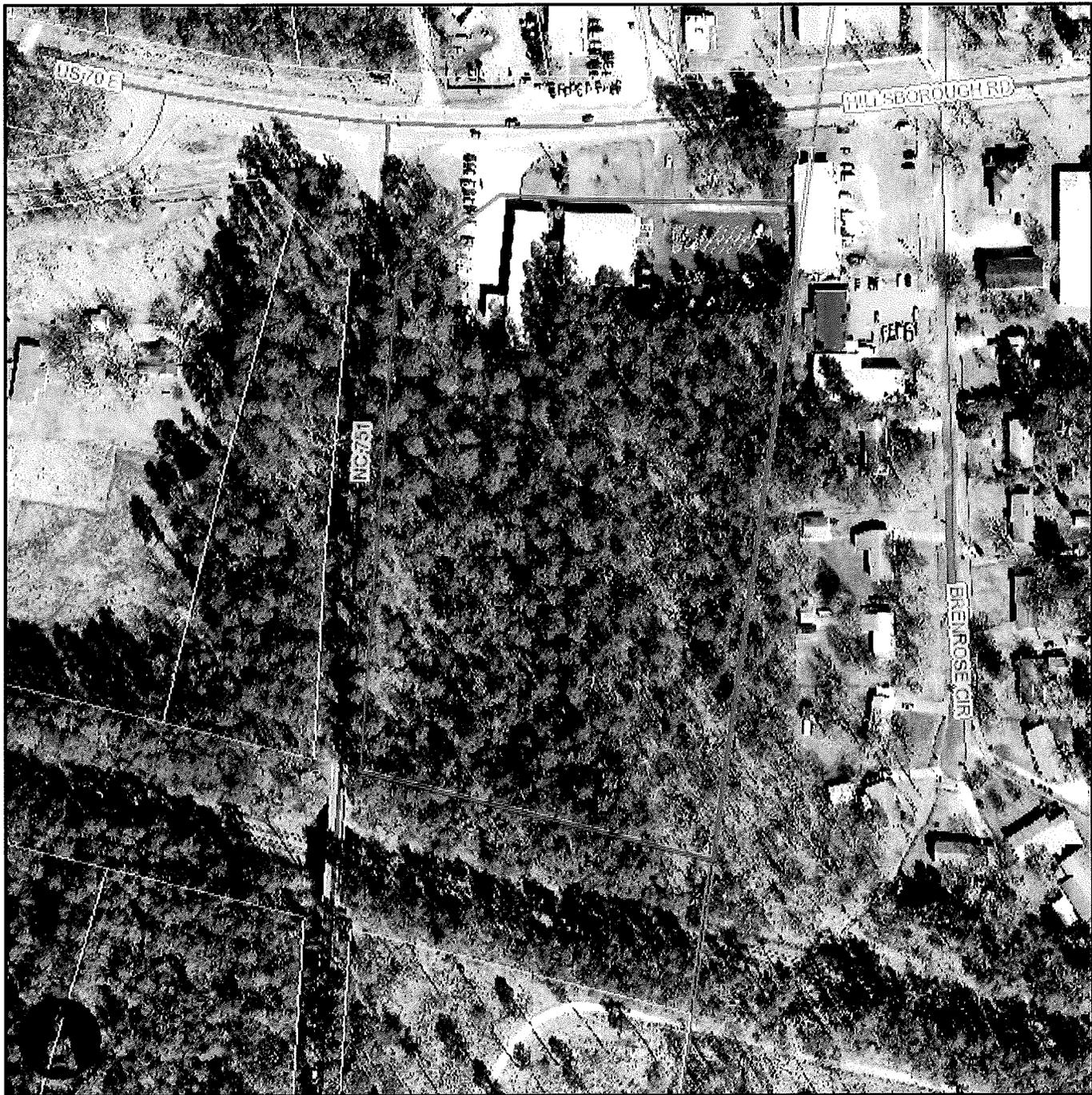
# Orange County, NC GIS



1 inch = 200 feet  
Created on 4/22/2015. Orange County, North Carolina.



# Orange County, NC GIS



1 inch = 200 feet  
Created on 4/22/2015. Orange County, North Carolina.



# Orange County, NC GIS



1 inch = 400 feet  
Created on 4/22/2015. Orange County, North Carolina.



## Orange County, NC GIS

### Buffer Task (18)

GeometryElement ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
Name Buffer 1

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
PIN 0803315304  
OWNER1\_LAST JOHN COATES PROPERTIES  
OWNER1\_FIRST LLC  
OWNER2\_LAST  
OWNER2\_FIRST  
SIZE 6.48  
UOM A  
LEGAL\_DESC #4 MINNIE MICOL P7/85  
SHAPE.fid 19257  
Watersheds Lower Eno  
Zonings EDE-1,EDE-2  
ECOD NO  
MTCZ YES  
SCOD NO  
Floodzone100 NO  
Floodzone500 NO  
SUBCODE  
Zoning\_Admin Durham, County  
shape.area 283437.465024855

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
PIN 0803312248  
OWNER1\_LAST MICOL  
OWNER1\_FIRST MARK S  
OWNER2\_LAST MICOL  
OWNER2\_FIRST LYNN H  
SIZE 6.6765  
UOM A  
LEGAL\_DESC #3 MINNIE S MICOL P51/113 N/O HWY 70  
SHAPE.fid 19259  
Watersheds Lower Eno  
Zonings EDE-1,EDE-2  
ECOD NO  
MTCZ YES  
SCOD NO  
Floodzone100 NO  
Floodzone500 NO  
SUBCODE  
Zoning\_Admin County  
shape.area 289145.781920696

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
PIN 0803306705  
OWNER1\_LAST ROWLAND  
OWNER1\_FIRST CLAY WILLIAM JR  
OWNER2\_LAST D  
OWNER2\_FIRST MARY ANN  
SIZE 1.03  
UOM A  
LEGAL\_DESC N/S HWY 70  
SHAPE.fid 19342  
Watersheds Lower Eno  
Zonings EDE-1  
ECOD NO  
MTCZ YES  
SCOD NO  
Floodzone100 NO  
Floodzone500 NO  
SUBCODE  
Zoning\_Admin Durham, County

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
PIN 0802291574  
OWNER1\_LAST DUKE  
OWNER1\_FIRST UNIVERSITY  
OWNER2\_LAST  
OWNER2\_FIRST  
SIZE 15.02  
UOM A  
LEGAL\_DESC #1 J T COUCH EST P20/35  
SHAPE.fid 19361  
Watersheds Lower Eno  
Zonings R1  
ECOD NO  
MTCZ NO  
SCOD NO  
Floodzone100 NO  
Floodzone500 NO  
SUBCODE  
Zoning\_Admin County

Zonings EDE-1,EDE-2  
 ECOD NO  
 MTCZ YES  
 SCOD NO  
 Floodzone100 NO  
 Floodzone500 NO  
 SUBCODE  
 Zoning\_Admin County  
 shape.area 40699.9312616682

Zonings EDE-1  
 ECOD NO  
 MTCZ YES  
 SCOD NO  
 Floodzone100 NO  
 Floodzone500 NO  
 SUBCODE  
 Zoning\_Admin County  
 shape.area 40607.5244481348

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
 PIN 0803310186  
 OWNER1\_LAST MICOL  
 OWNER1\_FIRST CHARLES A  
 OWNER2\_LAST  
 OWNER2\_FIRST  
 SIZE 7.07  
 UOM A  
 LEGAL\_DESC MAJ 2 & MAJ 6 MICOL PROP P7/85  
 SHAPE.fid 49437  
 Watersheds Lower Eno  
 Zonings EDE-1,EDE-2  
 ECOD NO  
 MTCZ YES  
 SCOD NO  
 Floodzone100 NO  
 Floodzone500 NO  
 SUBCODE  
 Zoning\_Admin County  
 shape.area 309690.409465425

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
 PIN 0802063850  
 OWNER1\_LAST DUKE UNIVERSITY SCHOOL OF  
 OWNER1\_FIRST FORESTRY  
 OWNER2\_LAST  
 OWNER2\_FIRST  
 SIZE 405.15  
 UOM A  
 LEGAL\_DESC OFF HWY 751  
 SHAPE.fid 54585  
 Watersheds Lower Eno,Jordan Lake  
 Zonings R1,RB  
 ECOD NO  
 MTCZ NO  
 SCOD NO  
 Floodzone100 NO  
 Floodzone500 NO  
 SUBCODE  
 Zoning\_Admin County  
 shape.area 773013.045630709

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
 PIN 0803308811  
 OWNER1\_LAST ORANGEWOOD DRIVE BUSINESS  
 OWNER1\_FIRST COMPLEX LLC  
 OWNER2\_LAST  
 OWNER2\_FIRST  
 SIZE 0.78  
 UOM A  
 LEGAL\_DESC W/S ORANGEWOOD DR  
 SHAPE.fid 54616  
 Watersheds Lower Eno  
 Zonings EDE-1  
 ECOD NO  
 MTCZ YES  
 SCOD NO  
 Floodzone100 NO  
 Floodzone500 NO  
 SUBCODE 2902  
 Zoning\_Admin Durham, County  
 shape.area 36554.5942656716

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
 PIN 0803305174  
 OWNER1\_LAST L R JACOBS LLC  
 OWNER1\_FIRST  
 OWNER2\_LAST  
 OWNER2\_FIRST  
 SIZE 8.9  
 UOM A  
 LEGAL\_DESC A QUALITY CONSTRUCTION P83/163 & E/S  
 NC 751 P114/65  
 SHAPE.fid 54620  
 Watersheds Lower Eno  
 Zonings EDE-1,EDE-2  
 ECOD NO  
 MTCZ YES  
 SCOD NO  
 Floodzone100 NO  
 Floodzone500 NO  
 SUBCODE  
 Zoning\_Admin County  
 shape.area 386468.91938338

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
 PIN 0802063850  
 OWNER1\_LAST DUKE UNIVERSITY SCHOOL OF

shape ESRI.ArcGIS.ADF.Web.Geometry.Polygon  
 PIN 0803307443  
 OWNER1\_LAST JOHNSON

Zonings	EDE-1,EDE-2
ECOD	NO
MTCZ	YES
SCOD	NO
Floodzone100	NO
Floodzone500	NO
SUBCODE	
Zoning_Admin	County
shape.area	386468.91938338

Created on 4/22/2015. Orange County, North Carolina.

# ORANGE COUNTY PLANNING and INSPECTIONS DEPARTMENT

131 West Margaret Lane  
 Hillsborough, North Carolina 27278  
 (919) 245-2600  
 (919) 644-3347 Fax  
 Daniel H. Bruce, Chief Building Official



## RECEIPT

Copy Reprinted on 07-02-2015 at 09:42:03

07/02/2015

**RECEIPT NUMBER: R15-002242**

TO: L R JACOBS LLC

PERMIT #: ZAA13-0006

TYPE: Zoning Atlas Amendment

SITE ADDRESS: 4915 HILLSBOROUGH RD OCPL

PARCEL: 0803305174

TRANSACTION DATE: 06/12/2015	TOTAL PAYMENT:	3,690.00
	TOTAL PAID FROM CURRENCY:	3,690.00

TRANSACTION LIST:

Type	Method	Description	Amount
Payment	Check	1306	3,690.00
XXXX-XXXX-XXXX-			
TOTAL:			3,690.00

ACCOUNT ITEM LIST:

FEE DESCRIPTION	ACCOUNT CODE	CALCULATED FEES
REZONING REQUEST	10620003-430	3,690.00
Total :		3,690.00
Balance Due:		\$0.00

RECEIPT ISSUED BY: MHARVEY

INITIALS: MDH

ENTERED DATE: 06/12/2015

TIME: 11:45 AM

Please retain this receipt for your records.

NOTE "A" SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED DURING THIS SURVEY...

STATE OF NORTH CAROLINA COUNTY OF ORANGE REVIEW OFFICER OF ORANGE COUNTY, CERTIFY THAT THIS MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS...

NOTE "B" THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN ARE BASED ON VISIBLE EVIDENCE AND DRAWINGS PROVIDED TO THE SURVEYOR...

REVIEW OFFICER ORANGE COUNTY LAND RECORDS/DIS DATE OF CERTIFICATION:

NOTE "C" ALL DISTANCES ARE HORIZONTAL GROUND AND AREA BY COORDINATE COMPUTATION.

NOTE "D" THIS SURVEY WAS DONE WITHOUT A TITLE SEARCH AND IS BASED ON REFERENCED INFORMATION...

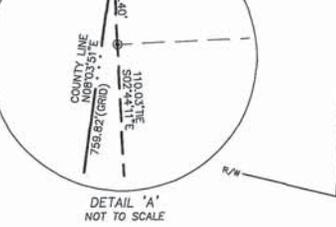
THIS PLAT DOES NOT REQUIRE PLANNING DEPARTMENT APPROVAL. 3/17/2015

NOTE "E" EXCEPT AS SPECIFICALLY STATED OR SHOWN, THIS SURVEY DOES NOT REPORT ANY OF THE FOLLOWING: EASEMENTS, OTHER THAN THOSE VISIBLE DURING FIELD EXAMINATION...

NOTE "F" METERS, JURISDICTIONAL WATERS OR OTHER CONDITIONS WHICH MAY BE REGULATED BY FEDERAL OR STATE OR LOCAL AGENCIES WERE NOT INVESTIGATED...

DATE 3/17/2015

NOTE "G" SEE PLAT "PROPERTY SURVEYED FOR MARY STARR GARDNER" BY ALDO CALLEMYN, PLS NO. 2544, DATED MARCH 3 1997, AND RECORDED IN PB 77/182 ORANGE CO. REGISTER OF DEEDS.



NOTE "H" FLOOD ZONES OR BASE FLOOD ELEVATIONS WERE NOT INVESTIGATED DURING THIS SURVEY.

NOTE "I" NO HCCS MONUMENTS WERE FOUND WITHIN 200' OF THIS SITE.

NOTE "J" PORTIONS OF THIS PROPERTY (ARE) IS WITHIN THE NEUSE RIVER BASIN.

I HEREBY CERTIFY THAT THIS PLAT IS OF THE FOLLOWING TYPE:

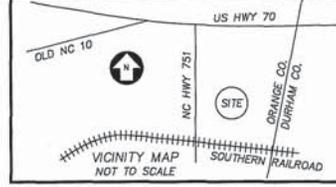
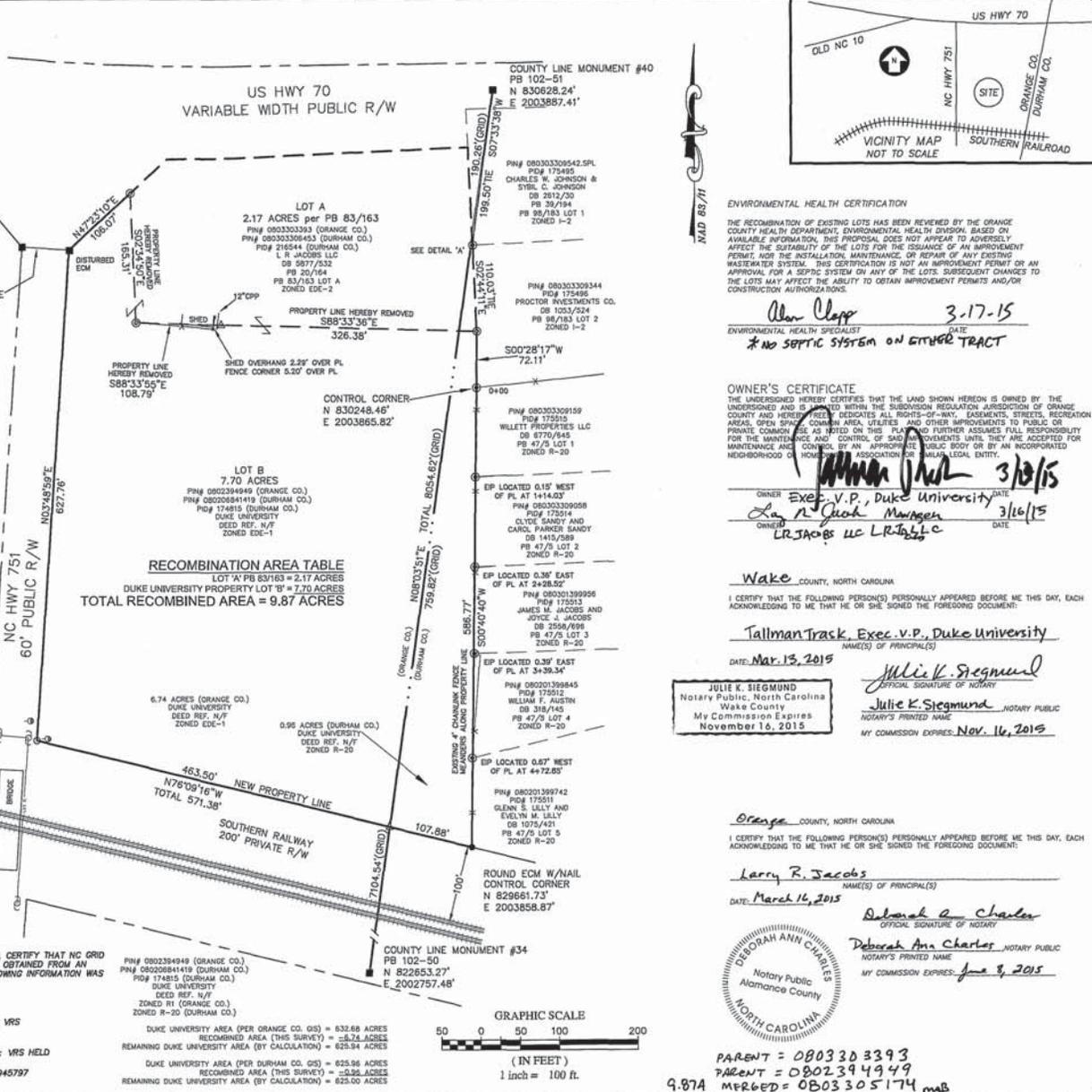
G.S. 47-30 (7)(1)(C)(1). THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

I, THOMAS A. TELLUP, PLS NO. 4298, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION...

I, THOMAS A. TELLUP, PLS NO. 4298, CERTIFY THAT NC GRID DATA SHOWN ON THIS PLAT WAS OBTAINED FROM AN ACTUAL GPS SURVEY AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: A
(2) POSITIONAL ACCURACY: 0.07
(3) TYPE OF GPS FIELD PROCEDURE: VRS
(4) DATES OF SURVEY: 12/22/2014
(5) DATUM/EPOCH: 83/71
(6) PUBLISHED/FIXED CONTROL USED: VRS HELL
(7) GEOID MODEL: 12
(8) COMBINED GRID FACTOR: 0.9999945797
(9) UNITS: US SURVEY FEET

PROFESSIONAL LAND SURVEYOR LICENSE NUMBER 4298 SUMMIT DESIGN AND ENGINEERING, PLLC. FIRM LICENSE NUMBER P-0339



ENVIRONMENTAL HEALTH CERTIFICATION THE RECOMBINATION OF EXISTING LOTS HAS BEEN REVIEWED BY THE ORANGE COUNTY HEALTH DEPARTMENT, ENVIRONMENTAL HEALTH DIVISION...

OWNER'S CERTIFICATE THE UNDERSIGNED HEREBY CERTIFIES THAT THE LAND SHOWN HEREON IS OWNED BY THE UNDERSIGNED AND IS LOCATED WITHIN THE SUBDIVISION REGULATION JURISDICTION OF ORANGE COUNTY...

Signature of Wake County, NC, dated 3/16/15. Includes name Julie K. Siegmund, Notary Public.

Signature of Julie K. Siegmund, Notary Public, dated November 16, 2015.

Signature of Deborah Ann Charles, Notary Public, dated June 8, 2015.

GRAPHIC SCALE 1 inch = 100 ft. PARENT = 0803203393, PARENT = 0802394949, MERGED = 0803305174 mab

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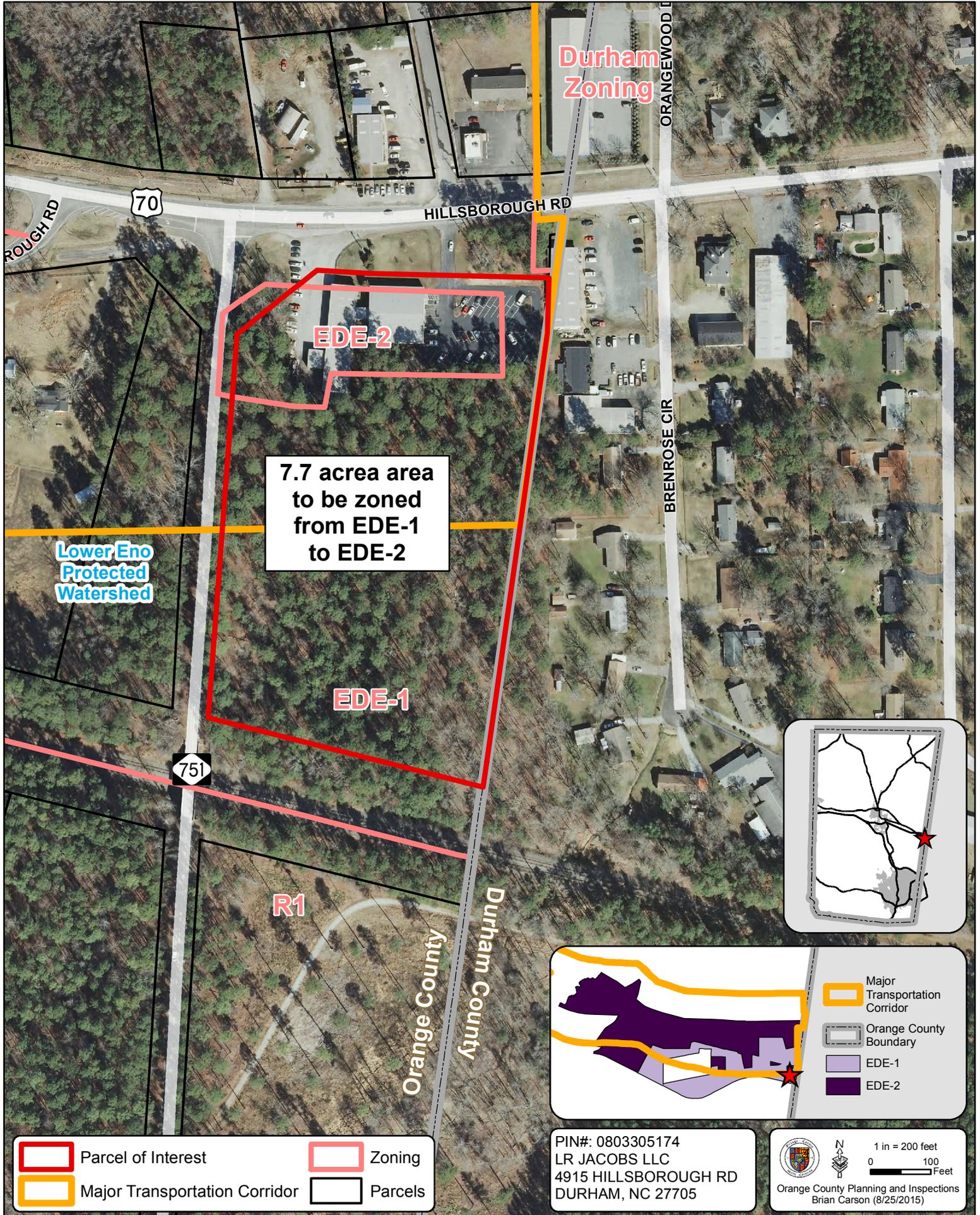
OWNERS ADDRESS: 402 OREGON ST., DURHAM, NC 27708. CLIENTS ADDRESS: 4915 HILLSBOROUGH RD., DURHAM, NC 27705. LEGEND: IRON ROD OR PIPE SET, EXISTING MONUMENT FOUND, etc.

FINAL PLAT OF RECOMBINATION FOR LR JACOBS, LLC. ENO TWP., ORANGE CO., NORTH CAROLINA. DURHAM TWP., DURHAM CO., NORTH CAROLINA. FIELD WORK PERFORMED JANUARY 2, 2015. PROPERTY AS SHOWN ON PB 201/64 (OC) & PB 83/163 (OC). STANDING IN THE NAME OF DUKE UNIVERSITY & L R JACOBS LLC.

Summit Design and Engineering Services logo and contact information: License #: P-0339, 504 Meadowlands Drive, Hillsborough, NC 27278-8551, Voice: (919) 732-3883, Fax: (919) 732-6476, www.summitdel.com

PROJECT NO. 14-0233. DRAWING 14-0233\_RECOMB.

# Attachment 2 - Vicinity Map



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

**Administration**  
**(919) 245-2575**  
**(919) 644-3002 (FAX)**  
**www.orangecountync.gov**



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



**CERTIFICATION OF MAILING**

**GENERAL USE REZONING APPLICATION**  
**ORANGE COUNTY, NORTH CAROLINA**

I, Patrick R. Mallett, Planner II with the Orange County , North Carolina Planning Department , DO HEREBY CERTIFY that in accordance with the provisions of Section 2.8.7 and of the Orange County Unified Development Ordinance (UDO) I have mailed, or have caused to be mailed, a Notice of Public Hearing regarding the processing of a General Use Zoning Atlas Amendment application submitted by LR Jacobs LLC to rezone a 7.7 acre portion of a 9.87 acre parcel (PIN 0803-30-5174) from Economic Development Eno - Lower Intensity (EDE-1) to Economic Development Eno – Higher Intensity (EDE-2). The applicant has indicated that this rezoning would allow for additional development of the existing Jacobs Glass facility.

The owners were identified according to the Tax Records and as required by the UDO.

The mailed notice specified the date, time, place and subject of the Public Hearing.

WITNESS my hand, this 24<sup>th</sup> day of August, 2015.

A handwritten signature in blue ink that reads "Patrick R. Mallett".

Patrick R. Mallett  
Planner II

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

**Administration**  
**(919) 245-2575**  
**(919) 644-3002 (FAX)**  
**www.orangecountync.gov**



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



August 20, 2015

**RE:** NOTIFICATION of PUBLIC HEARING to review an application to amend the ORANGE COUNTY ZONING ATLAS.

4915 Hillsborough Road/US Highway 70 East (PIN 0803-30-5174)

To Whom it May Concern:

This letter is being sent to inform you that the Orange County Board of Commissioners and the Planning Board have scheduled a **JOINT PUBLIC HEARING** to review an application submitted by LR Jacobs LLC to rezone a portion of their property located at 4915 Hillsborough Road/US Highway 70 East in the Eno Township of Orange County.

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Orange County Unified Development Ordinance (UDO), the property owners LR Jacobs (owners of Jacobs Glass Company) have submitted an application seeking to rezone 7.7 acres of their 9.87 acre parcel of property, further identified utilizing Orange County Property Identification Number (PIN) 0803-30-5174:

**FROM:** Economic Development Eno Lower Intensity (EDE-1), Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

**TO:** Economic Development Eno Higher Intensity (EDE-2), Lower Eno Protected Watershed Protection Overlay District, and Major Transportation Corridor (MTC) Overlay District

The property is currently split zoned with approximately 2 acres zoned EDE-2 and 7.7 acres zoned EDE-1. The portion of property zoned EDE-2 is currently developed and used to support a glass manufacturing and installation business, specifically Jacobs Glass. The applicant wishes to extend the existing EDE-2 general use zoning district over the entire property.

The property is located within the Economic Development Transition Activity Node as denoted on the Future Land Use Map of the Comprehensive Plan and the Urban Designated Area as denoted on the Growth Management System Map.

In accordance with County and State law, we are obligated to notify all property owners within 500 feet of a parcel being rezoned of the public hearing date and time. You are receiving this notice because your property falls within this prescribed area. Interested persons are invited to address the boards with their comments regarding the proposed rezoning at this Joint Public Hearing.

The full text of the public hearing items may be obtained no later than August 28, 2015 at the County website [www.orangecountync.gov](http://www.orangecountync.gov) at the County Commissioners Agendas link ([http://www.orangecountync.gov/departments/board\\_of\\_county\\_commissioners/agendas.php#](http://www.orangecountync.gov/departments/board_of_county_commissioners/agendas.php#)) by clicking on the September 8, 2015 meeting link.

The PUBLIC HEARING will be held at the Orange County Whitted Building, located at 300 West Tryon Street, Hillsborough North Carolina on **Tuesday September 8, 2015 at 7:00 p.m.**

If you require additional assistance, or have questions, please contact staff at (919) 245-2577.

Sincerely,



Patrick R. Mallett  
Planner II  
Orange County Planning

CC: File; and Michael Harvey, Current Planning Supervisor

Attachments: Vicinity Map of property;  
Site Assessment of Property; and  
Vicinity Map of Public Hearing Location - Whitted Building and Parking Areas.



**7.7 acre area  
to be rezoned  
from EDE-1  
to EDE-2**

PIN#: 0803305174  
L R JACOBS LLC  
  
4915 HILLSBOROUGH RD  
DURHAM, NC 27705

Data shown on this map is obtained from Orange County GIS and is for reference only. Exact locations and boundaries should be verified. Map prepared by Orange County Planning & Inspections. 8/19/2015 - pmalett

- Streams**
- TYPE**
- Soils Survey Stream
- Stream Buffer 65ft
- Watershed
- County Boundary
- Parcels
- Zoning



1 inch = 200 feet  
0 50 100 Feet

**Site Data:**  
 Zoning: EDE-1; EDE-2  
 Acreage: 9.87 acres  
 Watershed: Lower Eno Protected Watershed  
 Overlay Districts: Major Transportation Corridor Overlay (MTC)

**Impervious Surface Limits:** 36% Max without BMP/stormwater device; 70% max. with BMP/stormwater device.  
 Refer to UDO table 4.2.6

**Development Requirements:**  
 Front Building Setback (and Corner lots) : 25' from public rights-of-way  
 Vehicular Use and Parking Setback: 10' from public rights-of-way  
 Side Building Setbacks: 25'  
 Floor Area Ratio (FAR): EDE-1=.70 / EDE-2=.75  
 Required Pedestrian Landscape Ratio: .05

**Land Disturbance Thresholds:** 1) Environmental Control Permit required if disturbing more than 20,000 sq.ft.; and 2) Stormwater Management Permit required if disturbing more than 12,000 sq. ft. for non-residential structures.

**Notes:**  
 (1) Performance standards and uses may cause additional building setbacks, landscape buffers and other development requirements.

Site Assessment prepared by PRM on 19AUG2015.



**7.7 acre area  
to be rezoned  
from EDE-1  
to EDE-2**

PIN#: 0803305174  
 L R JACOBS LLC  
 4915 HILLSBOROUGH RD  
 DURHAM, NC 27705

Data shown on this map is obtained from Orange County GIS and is for reference only. Exact locations and boundaries should be verified. Map prepared by Orange County Planning & Inspections. 8/19/2015 - pmallett

- Streams
- Soils Survey Stream
- Watershed
- Stream Buffer 65ft
- County Boundary
- Soils Survey Stream
- Parcels
- Zonina



1 inch = 200 feet  
 0 50 100 Feet

# Whitted Building (300 W. Tryon St.)



1 in = 100 feet  
0 50 Feet

Orange County Planning and Inspections  
Brian Cerson (5/8/2015)

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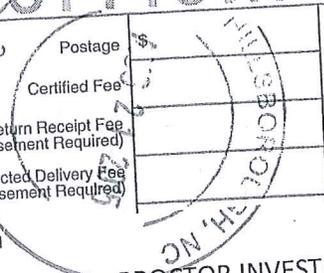
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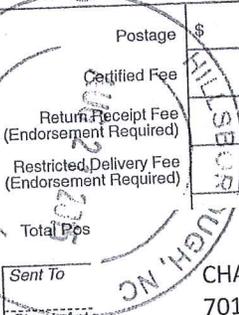
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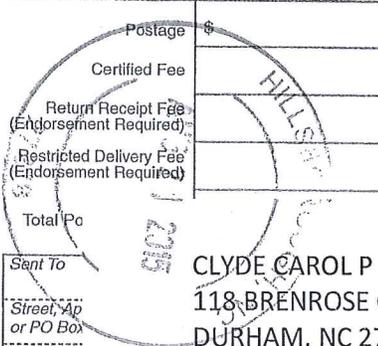
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DURHAM, NC 27701

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JEFFREY W & PAULA H TRUCKNER  
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**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2015

**Action Agenda  
Item No.**   C.2  

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

---

**DEPARTMENT:** Planning and Inspections

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

Yes

**ATTACHMENT(S):**

1. Comprehensive Plan/UDO Amendment Outline Form (UDO/Zoning 2015-09)
2. Proposed UDO Text Amendments

**INFORMATION CONTACT: (919)**

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

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

**BACKGROUND:** The "Amendment Outline Form" ([Attachment 1](#)) for these amendments was approved by the BOCC at its June 2, 2015 regular meeting, after discussion of the topic at the May 12, 2015 BOCC work session. Please see Section B of [Attachment 1](#) for background and analysis, including information on three objectives near the bottom of page 3 of the Amendment Outline Form.

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

**SOCIAL JUSTICE IMPACT:** There is no Orange County Social Justice Goal impact associated with this item.

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

1. Receive the proposed amendments to the UDO as detailed in this abstract and attachments.
2. Conduct the public hearing and accept public, BOCC, and Planning Board comment on the proposed amendments.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the BOCC in time for the **November 5, 2015** BOCC regular meeting.
4. Adjourn the public hearing until **November 5, 2015** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

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

UDO / Zoning-2015-09  
Revisions to Public Hearing Process

## A. AMENDMENT TYPE

### Map Amendments

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

### Text Amendments

- Comprehensive Plan Text:  
Section(s):

- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes
 Section(s): 1.6.2, 2.1, 2.3, 2.7, 2.8, 2.11.6 (correct typo), 2.12.6, and 5.10.2.

- Other: Planning Board Rules of Procedure to: 1) require that the Planning Board Chair (or Vice-Chair in Chair's absence) attend quarterly public hearings and BOCC meetings at which a decision is scheduled for items on which the Planning Board has made a recommendation; and 2) to encourage Planning Board members to attend Neighborhood Information Meetings (NIMs) for Class A Special Use Permits and Conditional Zoning Districts and to address procedures for notification regarding NIMs.

## B. RATIONALE

## 1. Purpose/Mission

To consider revisions to the current public hearing process for Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments.

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

## 2. Analysis

This topic was discussed extensively in 2014, after being heard at the September 2014 quarterly public hearing. The public hearing for the amendments, as proposed in 2014, was closed in November 2014 when it became apparent that the proposal would change significantly enough to require another public hearing. The topic was recently discussed at the May 12, 2015 BOCC work session. Work session materials include links to prior materials and are available at: <http://www.orangecountync.gov/150512.pdf>.

The Ordinance Review Committee (ORC), a function of the Planning Board, reviewed draft language in July and August 2015. At the time, internal staff/attorney review was ongoing and the materials to be presented at public hearing have been modified from the versions the ORC reviewed. ORC agenda materials and meeting notes are available

at: [http://www.orangecountync.gov/departments/planning\\_and\\_inspections/orange\\_county\\_planning\\_board\\_\(pb\).php#revize\\_document\\_center\\_rz3783](http://www.orangecountync.gov/departments/planning_and_inspections/orange_county_planning_board_(pb).php#revize_document_center_rz3783)

### Proposed Revisions

The following revisions are being proposed:

- Planning Board review/recommendation would occur prior to the public hearing for both legislative and quasi-judicial (Class A Special Use Permit) items. (The existing process is for Planning Board review/recommendation to occur after the public hearing).
  - Notification of the Planning Board meeting would be mailed/posted for items requiring such notice (e.g., map amendments or development projects) and the public would be able to address the Planning Board at its meeting. The proposed process would allow for public notification and involvement earlier than the existing process.
- No longer require a quorum of Planning Board members in order to hold a quarterly public hearing. Planning Board members would still be expected to attend the hearing but a quorum of members would not be necessary in order for the hearing to be held. This revision would mean that the quarterly public hearings would no longer be considered joint BOCC/Planning Board hearings since, without a quorum requirement, the Planning Board could not be considered an official board in attendance.
  - Revise the Planning Board Policies and Procedures to require that the Planning Board Chair, or Vice-Chair in the Chair's absence, attend the quarterly public hearings and also the BOCC meetings at which a decision is scheduled for items on which the Planning Board has made a recommendation.

- Allow Comprehensive Plan amendments to be heard at any quarterly public hearing. Existing language that states “principal” Comprehensive Plan amendments are “generally” considered only once per year at the quarterly public hearing in February is proposed for deletion (Section 2.3.7). Additionally, language that classifies Comprehensive Plan amendments into “principal” and “secondary” amendments (Section 2.3.4) is proposed for deletion because it is relevant only in conjunction with Section 2.3.7.
- Legal advertisement of quasi-judicial hearing items: the Attorney’s office has suggested that Special Use Permit applications (both Class A and Class B) no longer be included in legal advertisements since the general public does not have standing to participate in quasi-judicial hearings. Language modifications in Sections 2.7.6 and 2.12.6 reflect this suggestion.
- Closure of public hearings: Modifications in Section 2.3.11, 2.7.9, and 2.8.9 would mean that the BOCC would close the public hearing the night of the hearing. At that time, the BOCC could defer a decision to a later BOCC meeting date; make a decision; or, as a procedural right not included in the text of the UDO, send an application back to the Planning Board for further review. If the BOCC chooses to defer a decision to a later meeting date, legislative items could be listed on the future BOCC agenda as “Regular Agenda” items and additional public comment could be accepted. The existing requirement for only written comments after the quarterly public hearing is proposed for deletion.
  - In order to meet legal sufficiency requirements, hearings for quasi-judicial items (Class A Special Use Permits) would be continued to a date/time certain if additional evidence is requested at the quasi-judicial hearing. The date/time certain could be a regular BOCC meeting (e.g., not necessarily the next quarterly public hearing). Written evidence after the quasi-judicial hearing would no longer be permitted.
    - The BOCC may wish to consider adding an additional heading to its agendas: Quasi-Judicial Hearings, along with a note explaining that only persons with legal standing can participate in quasi-judicial hearings. Quasi-judicial items deferred for decision to a later meeting date or for which the hearing was continued in order to receive additional evidence would be listed on the BOCC agenda under this new heading.

As has been discussed in the past, the bases for some of the proposed revisions are as follows:

1. Allow the public to make comments at the end of the process.
2. Do not require a quorum of Planning Board members in order to hold a public hearing.
3. Streamline and speed up the review/decision process when possible.

The proposed revisions are expected to achieve these objectives. When the BOCC discussed this topic at its May 12, 2015 work session members indicated that if the process were revised it should be evaluated after one year to ensure it was working as intended and satisfactorily. If the proposed revisions are adopted, an evaluation

can be scheduled for a year later. Any future revisions to the UDO would need to be brought forward to a future public hearing.

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

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

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

N/A

## C. PROCESS

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

#### a. BOCC Authorization to Proceed

June 2, 2015

#### b. Quarterly Public Hearing

September 8, 2015

#### c. BOCC Updates/Checkpoints

May 12, 2015 – work session

July 1, 2015 – Planning Board ORC (agenda materials are available to all interested persons)

August 5, 2015 – Continuation of Planning Board ORC (agenda materials are available to all interested persons)

November 5, 2015 – receive Planning Board recommendation and make decision

#### d. Other

### 2. **PUBLIC INVOLVEMENT PROGRAM**

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

#### a. Planning Board Review:

Amendments proposed in 2014 were discussed extensively by the Planning Board in October, November, and December 2014. This discussion informs the 2015 proposed amendments.

July 1, 2015 – ORC (Ordinance Review Committee)

August 5, 2015 – ORC (continued from July 1)

October 7, 2015 - recommendation

#### b. Advisory Boards:


- c. Local Government Review:  
Proposed text amendments were sent to JPA partners (Towns of Chapel Hill and Carrboro) on August 7, 2015 in accordance with the JPA Agreement since any project in the Rural Buffer requiring a public hearing would be subject to any new process. To date, no comments have been received from the JPA partners.


- d. Notice Requirements

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

- e. Outreach:

<input type="checkbox"/> General Public:	
<input type="checkbox"/> Small Area Plan Workgroup:	
<input type="checkbox"/> Other:	

**3. FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

**D. AMENDMENT IMPLICATIONS**

If adopted, the amendments would revise the existing process used by Orange County to review Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments.

**E. SPECIFIC AMENDMENT LANGUAGE**

See Attachment 2.

**Primary Staff Contact:**

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

Attachment 2
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## Amendment Package to Revise the Existing Public Hearing Process

### Notes

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text to revise the existing public hearing process for Comprehensive Plan- and Unified Development Ordinance-related hearing items. This proposal would revise the existing cadence and have the Planning Board make its recommendation before the public hearing. See Section B of the Amendment Outline Form (Attachment 1 of agenda item materials) for a more detailed analysis of the proposed revisions.

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

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

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

- ~~(C) Each Township within the County shall be represented in the membership of the Board by at least one resident.~~
- ~~(D) The Board of County Commissioners may by resolution establish rules related to the requirements for volunteer service on the Planning Board, appointment and removal of Planning Board members, and rules of procedure.~~
- ~~(E) In establishing the Planning Board and its program, the Board of Commissioners intends that the Planning Board be guided by the following principle:~~
- ~~(1) The Comprehensive Plan, and any ordinances or other measures to effectuate it, shall be made with the general purpose of guiding and accomplishing a coordinated, and harmonious development of the County which will, in accordance with present and future needs, best promote health, safety and the general welfare, as well as efficiency in the process of development; including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of populations, the promotion of good civic design, wise and efficient expenditure of public funds, and adequate provision of public utilities, services, and other public requirements, and conservation of significant natural and man-made resources within the County.~~

### **1.6.2 Tenure and Membership Expectations**

- (A) The tenure of office shall be three years. Members are eligible for reappointment for a second consecutive full term. After two consecutive terms a member shall be ineligible for reappointment for one year after the expiration of the previous terms.
- (B) Appointments shall be made so that one-third of the terms expire in March of each calendar year.
- (C) Appointments made to fill vacancies shall be for the unexpired term and shall not be counted as a term in determining eligibility for reappointment.
- (D) A member whose term has expired shall continue to serve on the Board until his/her respective successor has been appointed.
- (E) Attendance at the regular meetings of the Board **and at quarterly public hearings<sup>1</sup>** shall be considered a prerequisite for maintenance of membership on the Planning Board. The Board of County Commissioners may declare a vacancy on the Planning Board because of a member's non-attendance, in accordance with the Planning Board Rules of Procedure.
- (F) Absence due to sickness, death of an immediate family member or similar reason shall be considered approved absences and shall not affect the member's status. In the event of long illness or other cause for prolonged absence, the member shall be replaced.
- (G) The Board of County Commissioners may by resolution establish rules related to tenure and membership expectations. If the terms of such resolution, or policy created thereby, conflict with the terms of this section 1.6.1 or 1.6.2 the terms of the resolution or policy shall control.

### **1.6.3 Duties**

As provided for in 153A-321 of the General Statutes of North Carolina, as amended, the Planning Board shall have the following general Powers and Duties:

- (A) Make studies of Orange County and surrounding areas;
- (B) Determine objectives to be sought in the development of Orange County;
- (C) Propose and recommend plans for achieving these objectives;

<sup>1</sup> Proposed addition to clarify that Planning Board members are expected to attend the quarterly public hearings.

## ARTICLE 2: PROCEDURES

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

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

TABLE 2.1: REVIEW AND DECISION MAKING AUTHORITIES						
R=REVIEW DM=DECISION MAKER PH=PUBLIC HEARING						
ZONING/DEVELOPMENT REVIEW RELATED PROCEDURES	PLANNING DIRECTOR	EROSION CONTROL OFFICER	DEVELOPMENT ADVISORY COMMITTEE (DAC)	BOARD OF ADJUSTMENT	PLANNING BOARD	BOCC
Zoning Compliance Permits	R and DM	R	R			
Soil Erosion and Sedimentation Control Permits		R and DM				
Stormwater Management Plans		R and DM				
UDO Text Amendments	R		R		R [1]	DM and PH
Zoning Atlas Amendments	R		R		R [1]	DM and PH
Special Use Permits	R	R	R	DM and PH Class B	R [1] Class A	DM and PH Class A
Zoning Variances	R		R	DM and PH		
Conditional Use	R	R	R		R [1]	DM and PH
Appeals/Interpretations	R		R	DM and PH		
Comprehensive Plan Amendments	R				R [1]	DM and PH
Subdivision Related Procedures						
Exempt	R and DM					
Minor	R and DM	R	R			
Major	R	R	R		R and DM [2]	R and DM
Conditional Use	R	R	R		R [1]	R, DM, and PH
Appeal						
NOTES						
[1]	<del>The Planning Board attends a Joint Public Hearing with the BOCC to review all zoning related items requiring a public hearing. The Planning Board will have the item referred to it and shall have up to 90 days to comment on the application.</del> <p>The Planning Board reviews applications and makes a recommendation prior to the public hearing held by the Board of County Commissioners. The Board of County Commissioners may choose to refer an application back to the Planning Board at the conclusion of the public hearing.</p>					
[2]	<p>The Planning Board approves the Concept Plan for a Major Subdivision and then makes a recommendation on the Preliminary Plat to the BOCC.</p>					

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

**2.2.9 Manner of Review<sup>2</sup>**

Applications requiring a public hearing shall be reviewed using either a legislative process or a quasi-judicial process as follows:

- (A) Comprehensive Plan amendments – legislative
- (B) Special Use Permits – quasi-judicial
- (C) Zoning Atlas and Unified Development Ordinance amendments – legislative
- (D) Conditional Use District (CUD) – rezoning portion is legislative; Special Use Permit portion is quasi-judicial
- (E) Conditional Zoning District (CZD) - legislative

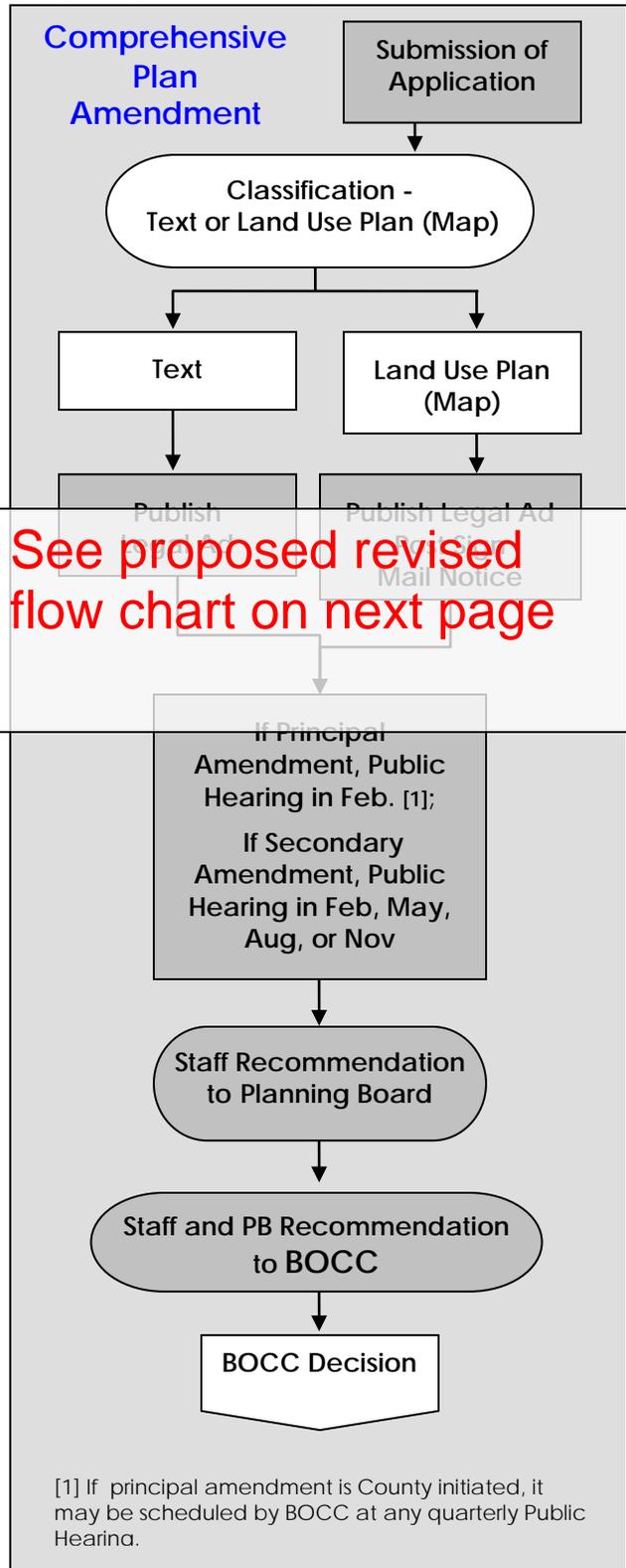
**SECTION 2.3: COMPREHENSIVE PLAN AMENDMENTS**

**2.3.1 Review and Approval Flow Chart**

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

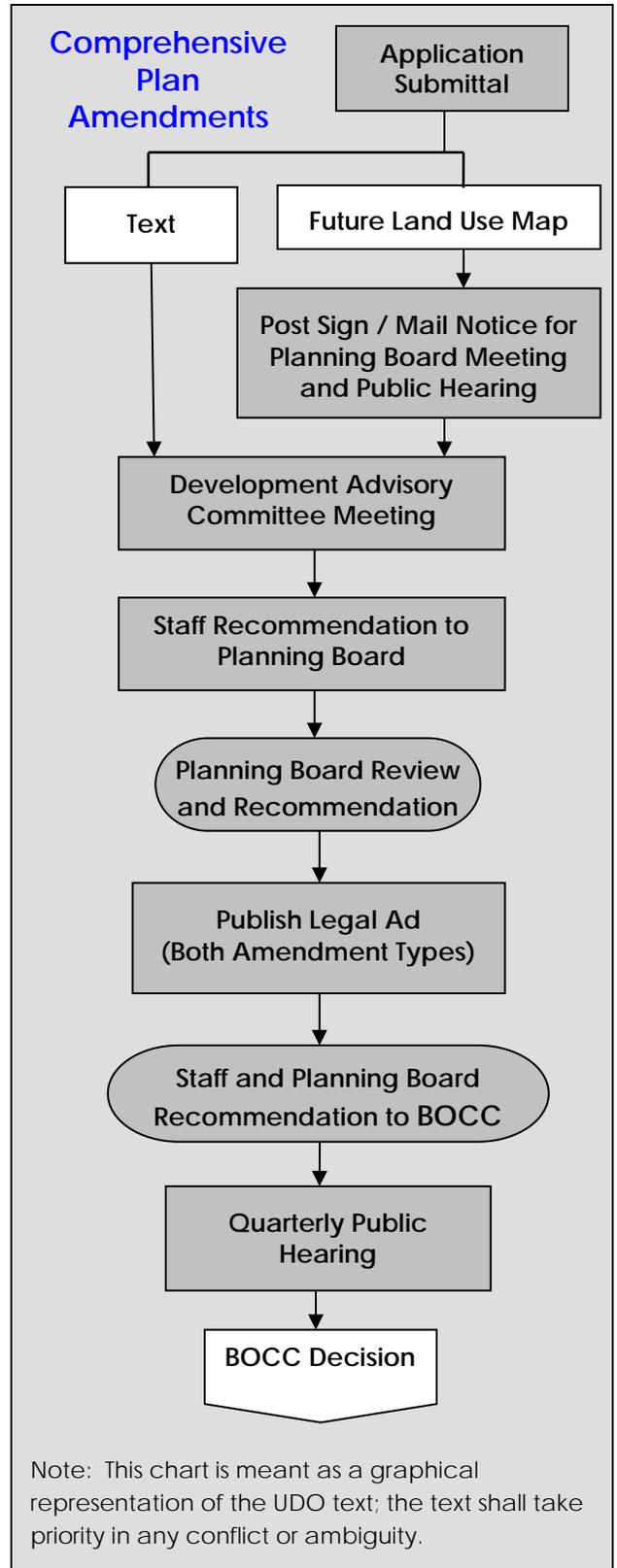
**2.3.2 Generally**

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



<sup>2</sup> Proposed to be added to provide clarity on which type of review process is used for the various types of applications that require a public hearing. Staff is not suggesting adding the specifics of each process in the UDO as specifics may change as case law is made or State statutes are modified.

Proposed flow chart for Section 2.3.1



- (3) In response to a change in the policies, objectives, principles or standards governing the physical development of the County.

### 2.3.3 Initiation of Amendments

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- (A) An amendment to the Comprehensive Plan or portion thereof may be initiated by:
  - (1) The Board of Commissioners on its own motion;
  - (2) The Planning Board;
  - (3) Application, by any person or agency, which accurately and completely sets forth the reason(s) for the proposed amendment as prescribed in Section 2.3.2(B); or
  - (4) The Planning Director.<sup>3</sup>
- (B) Once initiated, all amendments shall be referred to the Planning Board.<sup>4</sup>

### 2.3.4—Classification of Amendments<sup>5</sup>

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

- (A) **Principal Amendments Include**
  - ~~(1) Additions to or modifications of policies, objectives, principles or standards;~~
  - ~~(2) The creation of new activity nodes or additions to existing activity nodes which exceed ten acres in land area; or~~
  - ~~(3) Proposals for new freestanding plan areas or additions to existing areas that exceed 100 acres in land area.~~
- (B) **Secondary Amendments Include**
  - ~~(1) The expansion of an activity node where the additional area is contiguous to an existing node and does not increase its land area by more than ten acres;~~
  - ~~(2) The expansion of a designated plan area where the additional area is contiguous to the existing plan designation and does not increase its land area by more than 100 acres;~~
  - ~~(3) A correction of an error or omission; or~~
  - ~~(4) Revisions to any factual or descriptive material.~~

<sup>3</sup> (1) through (4) are currently (A) through (D). This section has been reformatted on the advice of the Staff Attorney.

<sup>4</sup> These proposed revisions here and on subsequent pages incorporate the discussion the Planning Board had in October, November, and December 2014 and which the BOCC discussed on May 12, 2015. The cadence of the review process would be revised to have the Planning Board make its recommendation prior to the public hearing. Notices would be mailed to nearby property owners and a sign(s) would be posted; this revision will notify nearby property owners of potential changes much earlier in the process. Although the Planning Board meeting would not be an official public hearing, the public could address the Planning Board (the existing requirement for written comments only is not proposed to continue in this revised process) and the Planning Board can take all public comments into consideration when making its recommendation.

<sup>5</sup> Staff proposes that this entire section (2.3.4) be deleted because it is relevant only in conjunction with Section 2.3.7. Rather than limiting "principal" amendments to being heard "generally" only once per year (as Section 2.3.7 does), staff proposes that any Comprehensive Plan amendment could be heard at any of the quarterly public hearings. Deletion of this subsection will cause the renumbering of subsequent subsections in Section 2.3.

### 2.3.5 Public Hearing Required<sup>6</sup>

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A public hearing shall be held before adoption of any proposed Comprehensive Plan amendment. The Board of County Commissioners ~~and the Planning Board~~<sup>7</sup> shall hear applications and receive public comment for proposed Comprehensive Plan amendments in a Quarterly Public Hearing.

### 2.3.6 Notice Requirements for **Planning Board Meetings and Public Hearings**<sup>8</sup>

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- (A) The Planning Director shall provide notice of Planning Board meetings at which the Planning Board is to review and make a recommendation on Future Land Use Map amendments and Quarterly Public Hearings at which an amendment to the Future Land Use Map is to be reviewed. Notifications of proposed Future Land Use Map amendments shall occur as follows:
- (1) Notice of the Planning Board meeting and public hearing shall be posted on the affected parcel or on an adjacent public right of way a minimum of ten days prior to the Planning Board meeting. Said notice shall contain the time and location of both the Planning Board meeting and public hearing.<sup>9</sup>
    - (a) When multiple parcels are affected, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested persons.
  - (2) Written notice of the Planning Board meeting and public hearing shall be sent by first-class mail to all property owners, as listed in the Orange County tax records, whose property is affected or within 500 feet of the affected parcel(s). Said notice shall be mailed at least 15 days prior to the date of the Planning Board meeting and shall include the times and locations of both the Planning Board meeting and public hearing.
- (B) The Planning Director shall provide public notice for any Comprehensive Plan amendment to be heard at a Quarterly Public Hearing. The notice shall include the time and location of the public hearing.<sup>10</sup>
- (C) For all proposed amendments, ~~Notice~~ notice of the public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the County, stating the time and place of such hearing and the substance of the proposed amendment.<sup>11</sup>
- (1) This notice shall appear in said newspaper for two consecutive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.

<sup>6</sup> Staff notes that public hearings are not required by State statutes for Comprehensive Plan amendments but Orange County chooses to hold public hearings on amendments to the Comprehensive Plan.

<sup>7</sup> Since a quorum of Planning Board members will no longer be necessary to hold a public hearing, the public hearing would no longer be considered a joint hearing.

<sup>8</sup> Staff notes there are no statutory requirements to provide notice of Comprehensive Plan amendments (since statutes do not require public hearings for Comprehensive Plans), however, Orange County chooses to provide notice regarding Comprehensive Plan amendments to property owners/residents in the same manner zoning and UDO amendments (which are required by statutes to be noticed) are noticed.

<sup>9</sup> The Planning Board has stated that it would like the public to have notice of its meetings when it is considering amendments so the public can attend the meetings and provide comments if desired. Staff is proposing that the notice for the Planning Board meeting and the later quarterly public hearing be combined into one notice so that two notices are not required to be mailed.

<sup>10</sup> Proposed addition made by the Staff Attorney.

<sup>11</sup> This language is currently (A) but has been automatically re-numbered due to a new (A) and (B) being proposed for addition.

- (2) The minimum published size of the notice shall be 25 square inches.<sup>12</sup>
- (D) ~~In the case of amendments to the Land Use Plan (map), the Planning Director shall prominently post a notice of the public hearing on the site proposed for the land use change or on an adjacent public street or highway right of way not less than ten days before the date set for the public hearing.~~
- (1) ~~When multiple parcels are included within a proposed Land Use Plan (map) amendment affected, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.~~
- (E) ~~In the case of amendments to the Land Use Plan (map), written notice of the public hearing shall be sent by first-class mail to all property owners, as listed in the Orange County tax records, whose property is affected (property that is included in the proposed land use plan amendment) and all property owners or within 500 feet. Said notice shall be mailed at least 14 days, but not more than 25 days, prior to the date of the public hearing.~~<sup>13</sup>

### 2.3.7 Consideration of Amendments<sup>14</sup>

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- (A) ~~Principal amendments shall generally only be considered once each year at the quarterly public hearing in February. A proposed amendment may be considered at any Board of County Commissioners meeting designated as a Quarterly Public Hearing.~~
- (B) ~~If a principal amendment is scheduled by the Board of County Commissioners for other than the February quarterly public hearing, it shall be scheduled during one of the quarterly public hearings held in May, August, and November.~~
- (C) ~~Secondary amendments may be considered four times each year at the a quarterly joint public hearings, in February, May, August, and November.~~
- (D) A proposed amendment may be considered in conjunction with a rezoning request for the same property ~~if the requests are in compliance with an adopted small area plan.~~<sup>15</sup>
- (E) ~~Requests for a rezoning not in compliance with an adopted small area plan, conditional use district, and/or special use permit may only be considered at subsequent hearings or meetings following approval of the proposed amendment to the Comprehensive Plan.~~<sup>16</sup>

### 2.3.8 Application Requirements

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- (A) **Generally**
- (1) All applications for amendments to the Comprehensive Plan shall be submitted on forms supplied by the Planning Department and shall be signed.
- (2) Three copies of the application shall be submitted to the Planning Director.

<sup>12</sup> (C)(1) and (C)(2) are currently (C) and (D) but have been recommended as subparagraphs by the Staff Attorney.

<sup>13</sup> (D) and (E) have been rewritten and combined into (A) above.

<sup>14</sup> Staff proposes this section be modified, in conjunction with the proposed deletion of Section 2.3.4, so that any proposed amendment to the Comprehensive Plan can be heard at any of the quarterly public hearings, rather than limiting "principal" amendments to "generally" only the February QPH. (It is noteworthy that principal amendments in recent years have been heard at hearings that were not in February, such as the land use classification change in the Efland-Mebane corridor where Morinaga's factory is now located, which was heard at a May QPH).

<sup>15</sup> The Staff Attorney has recommended deletion of this provision due to concerns over who determines compliance with a small area plan and how compliance is determined.

<sup>16</sup> The Staff Attorney has recommended deletion of this provision because of the modification made in (D). If the modification in (D) is not made, the language of (E) should be modified because of the concern that a restriction on a rezoning application has been placed in the Comprehensive Plan amendment section.

- (3) Before accepting any amendment application, the Planning Director shall ensure that it contains all required information, as specified in this Ordinance. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Planning Director, but shall be returned to the applicant, with a notation by the Planning Director of the deficiencies in the application.

**(B) Contents of Application**

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

- (1) For amendments to the ~~Land Use Plan (map)~~ **Future Land Use Map**<sup>17</sup> within the Land Use Element, a map at a legible scale adequately illustrating the land which would be covered by the proposed map amendment, and a complete list of Property Identification Numbers (PIN) for the properties;
- (2) For amendments to the Comprehensive Plan text, a copy of the existing text provision(s) which the applicant proposes for amendment, and a written statement which describes in detail changes which the applicant proposes to make to the text of the Comprehensive Plan and the rationale for the proposed amendment consistent with the standards established in this Ordinance; and
- (3) All other circumstances, factors and reasons which the applicant offers in support of the proposed Comprehensive Plan amendment.

**2.3.9 Analysis and Recommendation**

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

**2.3.10 Planning Board Review**

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- ~~(A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.~~
- ~~(B) The Board of County Commissioners may direct the Planning Board to provide a recommendation by a date certain. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings unless the Board of County Commissioners grants an extension.~~
- ~~(C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B), the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~
- ~~(D) Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.~~
- ~~(E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.~~
- (A) The Planning Board shall allow public comments at its meeting and those comments shall be taken into consideration by the Planning Board in making its recommendation.
- (B) The Planning Board shall review and comment on applications and shall make one of the following recommendations prior to the quarterly public hearing:

<sup>17</sup> The name of this map was changed in the Comprehensive Plan in 2012 and should be updated here.

- (1) Recommend approval,
  - (2) Recommend denial,
  - (3) Recommend approval but with specified changes.
  - (4) Recommend the Planning Board be given extended time to consider the matter.
- (C) Should the Planning Board fail to make a recommendation prior to the quarterly public hearing, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.<sup>18</sup>

### 2.3.11 Action by Board of County Commissioners

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- (A) The Board of County Commissioners shall ~~not consider enactment of proposed amendment until~~ hold a public hearing after the Planning Board either makes its recommendation or takes no action on the application ~~as prescribed in this section~~ within 30 days of its referral.<sup>19</sup>
- (B) ~~In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.~~
- (C) ~~The Board of Commissioners, upon receipt of a recommended Comprehensive Plan or portion thereof from the Planning Board, shall consider such recommendations and adopt them by resolution, either unchanged or with modifications.~~
- (B) After the Board of County Commissioners closes the public hearing, the Board of County Commissioners shall do one of the following:
  - (1) defer a decision to a later Board of County Commissioners meeting date, or
  - (2) make a decision.
- (C) In making its decision, the Board of Commissioners shall consider comments made at the public hearing, the Planning Board's recommendation, and the Planning Director's recommendation.

## SECTION 2.4: ZONING COMPLIANCE PERMITS

### 2.4.1 Applicability

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- (A) As required by this Ordinance, a Zoning Compliance Permit must be issued before any new site development, building, structure, or vehicular use area may be erected, constructed or used.
- (B) Submittal and approval of a site plan (see Section 2.5) is required for issuance of a Zoning Compliance Permit except for:
  - (1) Single-family detached dwellings and duplexes, and accessory structures to those residential uses shall require a plot plan as detailed within Section 2.4.3 of this Ordinance.

<sup>18</sup> This paragraph is a slight modification from existing paragraph (C), which is proposed to be deleted. It addresses what happens in the event the Planning Board fails to make a recommendation (namely, that the process moves forward without a Planning Board recommendation).

<sup>19</sup> The Staff Attorney has suggested this paragraph be rephrased to make it affirmative.

- (3) ~~Accessory Structures with any dimension that is 12 feet or greater in height, width, or depth, meeting requirements of Section 6.6.1(B)(8).~~

**SECTION 2.7: SPECIAL USE PERMITS**

**2.7.1 Generally**

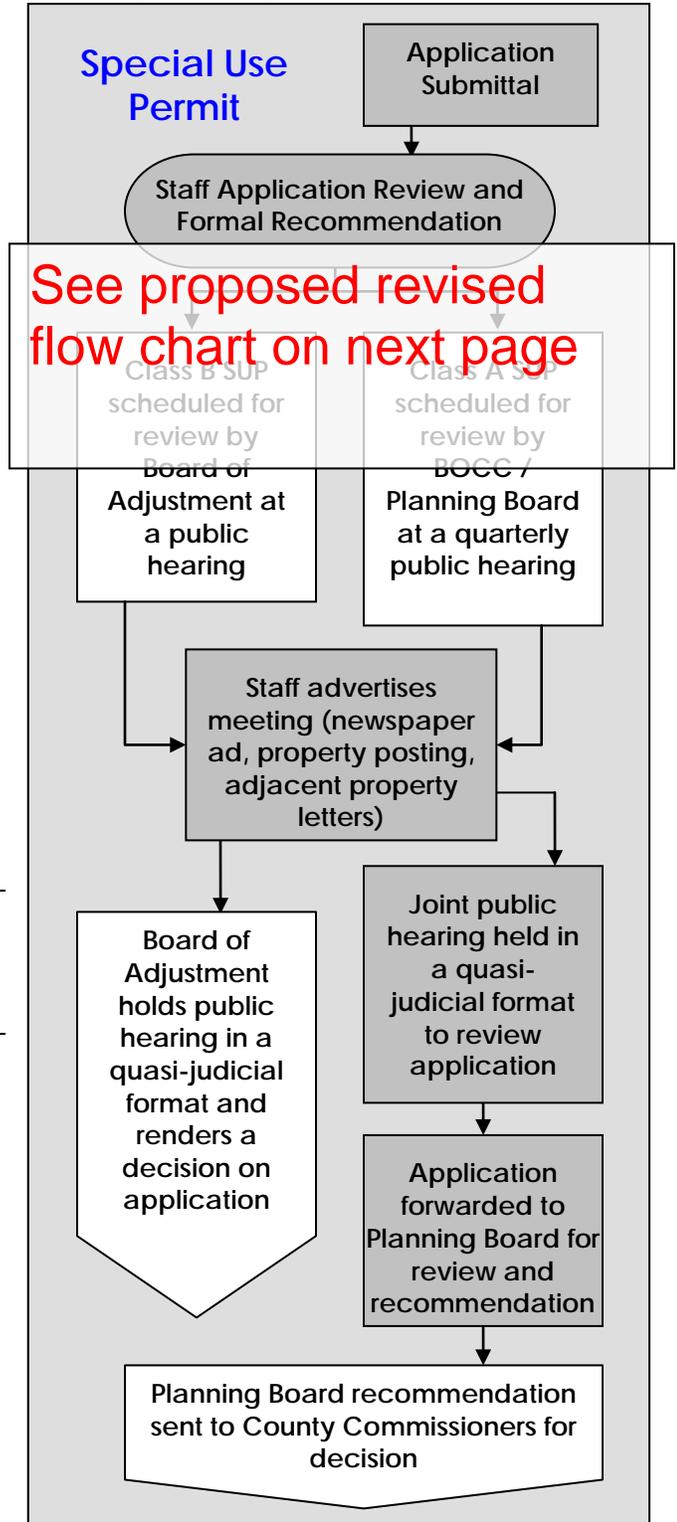
- (A) Any use or development designated by applicable zoning district regulations contained within Article 5 as a special use, or as allowed only pursuant to a special use permit (either Class A or Class B), may be established in that district only after the use or development is authorized by a validly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

**2.7.2 Review and Approval Flow Chart**

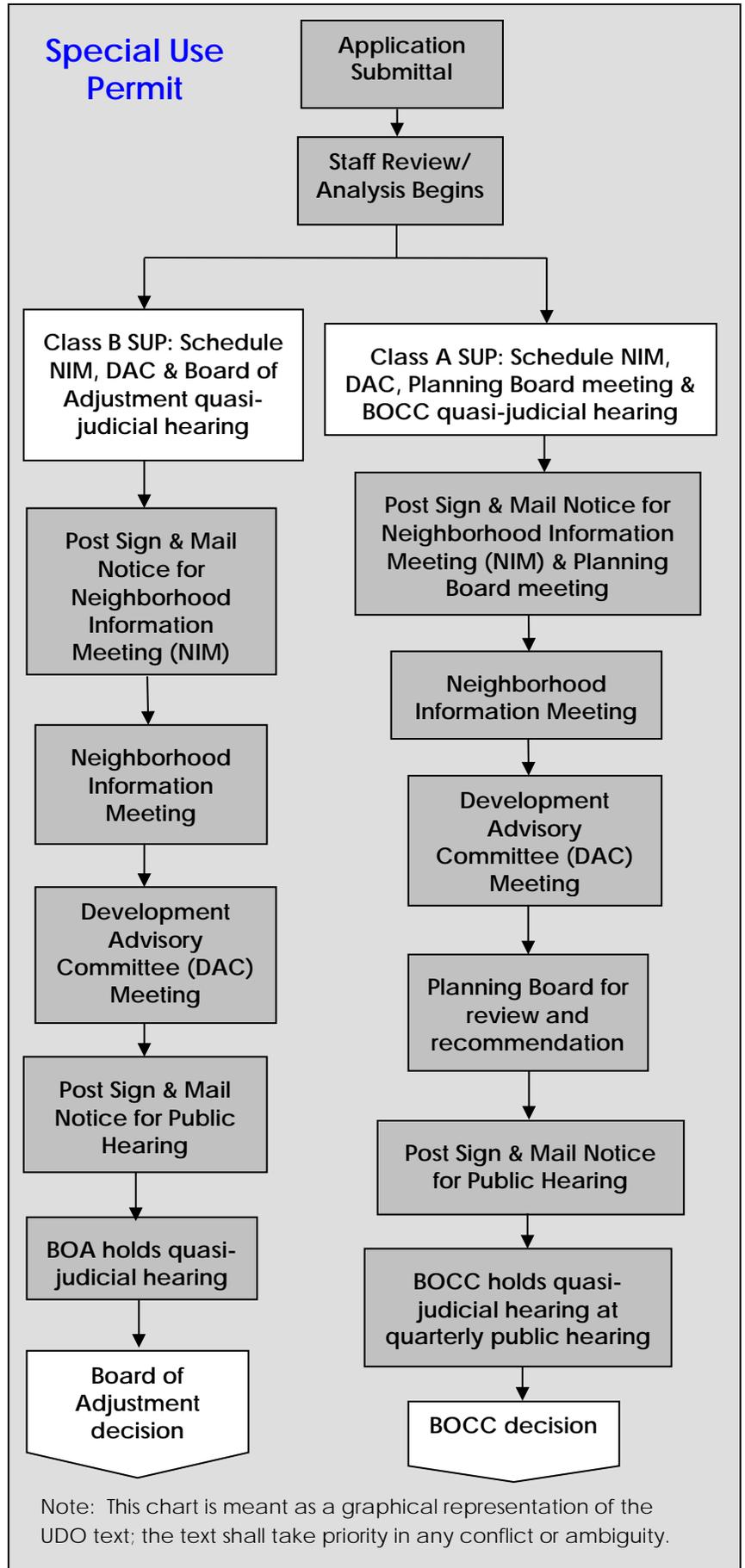
The review and approval process for Special Use Permits is shown in the procedure's flowchart.

**2.7.3 Application Requirements**

- (A) Applications for a Special Use shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (B) Applications shall include:
  - (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.
  - (2) The name(s) and address(es) of the owner(s) of the property involved.



Proposed flow chart for Section 2.7.1



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

#### 2.7.4 Staff Review

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- (A) The Planning Director shall cause an analysis to be made of the application by qualified representatives of the County and other agencies or officials as appropriate.
  - (1) Applications for agricultural support enterprise uses located within the Rural Buffer land use classification, as depicted on the Future Land Use Map of the adopted Comprehensive Plan, shall be forwarded to the County's Agricultural Preservation Board for review and comment.
    - (a) The Agricultural Preservation Board shall have 30 calendar days to provide comments. If comments are not received within this timeframe, the application review process shall not be delayed.
    - (b) For purposes of this subsection, agricultural support enterprise uses shall be defined as those permitted in the ASE-CZ zoning district, as detailed within Section 5.2.3 of this Ordinance.
- (B) The Planning Director shall submit the analysis to the Board of County Commissioners and the Planning Board, in the case of Class A Special Uses, or the Board of Adjustment, in the case of Class B Special Uses.
- (C) The appropriate Board reviewing the application shall receive and enter the analysis into evidence during the public hearing. The analysis shall be subject to examination by all interested parties and the Planning Director shall be subject to cross-examination regarding the analysis.
- (D) ~~The Planning Director shall not make a recommendation on the general findings detailed within Section 5.3 of this Ordinance.~~<sup>20</sup>

<sup>20</sup> The Staff Attorney has suggested this language be removed. In instances where Planning staff is asked for an opinion or asked questions about the findings of fact, having this language in the UDO could be problematic because it could create a large gray area. (Section 1.4 of the UDO allows the Planning Director to designate other

### 2.7.5 Neighborhood Information Meeting

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- (A) Before a Public Hearing may be held for a Special Use the applicant is required to schedule a minimum of one neighborhood information meeting. The purpose of the meeting is to obtain surrounding property owner input and comments on the proposed development project and allow staff an opportunity to explain the review process associated with the request.
- (B) The applicant shall obtain property owner mailing address information from the Orange County Planning Department, which shall utilize Orange County Land Records data, and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a Special Use has been requested.
- (C) The applicant shall mail notice of the Neighborhood Information Meeting a minimum of 14 days prior to the date of the meeting.
- (D) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.
- (E) The meeting shall be held a minimum of 45 days prior to the date of the Public Hearing.
- (F) Neighborhood information meetings for telecommunication facilities shall be held in accordance with the provisions of Section 5.10.8 (B) (2).

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

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- (A) The Planning Director shall give notice of the date, time and place of the Planning Board meeting at which the Planning Board is scheduled to review a Special Use Permit application.
  - (1) Written notice shall be sent by first class mail to all adjacent property owners not less than ten days before the Planning Board meeting date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.
  - (2) The Planning Director shall post on the affected property a notice of the Planning Board meeting at least ten days prior to the date of said meeting.
  - (3) Notices may be combined with notice of the Neighborhood Information Meeting required in Section 2.7.5.
- (B) The Planning Director shall give public notice of the date, time and place of the public hearing to be held to receive ~~comments, evidence in the form of~~<sup>21</sup> testimony and exhibits pertaining to the application for a Special Use.
- (C) ~~Such notice shall be published in a newspaper of general circulation in Orange County once a week for two successive weeks, with the first notice to be published not less than ten days nor more than 25 days prior to the date of the hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.~~<sup>22</sup>

staff members to administer, interpret, and enforce the UDO; the term Planning Director is used throughout the UDO for consistency).

<sup>21</sup> The Staff Attorney has suggested this language modification since SUP applications are quasi-judicial in nature and require testimony rather than comments.

<sup>22</sup> The Staff Attorney has suggested that published newspaper advertisements for quarterly public hearings not include SUP applications since the general public does not have standing in such matters and cannot participate. (State Statutes require mailed and posted notice but do not require legal ads for SUP applications). As shown in the remainder of this section, a notice would be posted on the affected parcel and adjoining property owners would receive mailed notification of the hearing date (in addition to mailed and posted notice of the Neighborhood Information Meeting and Planning Board meeting).

- (1) Written notice shall be sent by certified mail to all adjacent property owners ~~not less than 15 days~~ **at least ten days but not more than 25 days**<sup>23</sup> before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.<sup>24</sup>
- (2) The Planning Director shall post on the affected property a notice of the public hearing at least ten days ~~but not more than 25 days~~<sup>25</sup> prior to the date of said hearing.<sup>26</sup>

### **2.7.7 Notice Requirements for Class B Special Use Permits**

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

### **2.7.8 Nature of Proceedings**

- (A) The review of Special Use Permit applications shall be conducted during a public hearing by the decision-making board.
- (B) The review of a Special Use Permit application is a quasi-judicial process, where the Board responsible for rendering a decision acts much like a panel of judges. The Board hears factual evidence and sworn testimony presented at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence.
- (C) The chair or presiding officer of the hearing shall swear all parties intending to present evidence or testimony during the hearing.
- (D) The chair or presiding officer may take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the application, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include:
  - (1) Barring the presentation of obvious hearsay evidence,
  - (2) Barring the presentation of non-expert opinion,
  - (3) Interrupting digressions into immaterial testimony,
  - (4) Interrupting repetitive testimony,
  - (5) Reasonably limiting the time allotted each witness or cross-examination,
  - (6) Providing for the selection of spokespersons to represent groups of persons with common interests,
  - (7) Interrupting personal attacks, and/or
  - (8) Ordering an end to disorderly conduct.
- (E) Where the Board finds compliance with the general standards, specific rules governing the specific use, and that the use complies with all required regulations and standards,

<sup>23</sup> Language modification is being suggested to be consistent with Statutes and to ensure the outer limit of 25 days is not inadvertently missed.

<sup>24</sup> Staff notes that State Statutes require that abutting property owners receive mailed notification. Orange County chooses to extend mailed notification to property owners within 500 feet of the affected parcel and also requires certified mail (Statutes do not require notices be mailed via Certified Mail). It is worth noting that at times in the past, staff has received comments from residents about the hassle of having to pick up a letter at the post office if they were not home at the time of delivery attempt.

<sup>25</sup> Language modification is being suggested to be consistent with Statutes and to ensure the outer limit of 25 days is not inadvertently missed.

<sup>26</sup> C(1) and (2) are currently (C) and (D) but have been indented one level to flow better in this subsection, given the proposed additions.

~~the application must be approved unless the Board shall also find, in some specific manner, that:~~

- ~~(1) the use will not maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.~~
- ~~(F) Those opposing approval of the application on the grounds that the use will not promote the public health, safety and general welfare shall have the burden of establishing, by competent material and substantial evidence, the specific manner in which the proposed use does not satisfy the requirements for approval of the application for a Special Use.~~

### 2.7.9 Review and Decision

- (A) For Class A Special Use ~~permits~~Permits, the following shall apply:
- (1) All applications shall be referred to the Planning Board for review and recommendation after the Neighborhood Information Meeting but prior to the public hearing.<sup>27</sup>
- (2) The Planning Board shall make a recommendation and proposed findings of fact on the application, including the findings required in Section 5.3.2 of this Ordinance<sup>28</sup>. The Planning Board's action on an application shall be one of the following:
- (a) Recommend approval based on proposed findings of fact,
  - (b) Recommend denial based on proposed findings of fact,
  - (c) Recommend approval based on proposed findings of fact but with specified conditions.
- (3) Should the Planning Board fail to make a recommendation prior to the public hearing, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.
- (4) The Board of County Commissioners ~~and Planning Board~~<sup>29</sup> shall review the application during ~~a regularly scheduled public hearing~~ a meeting designated as a Quarterly Public Hearing.
- (5) All evidence shall be submitted during the public hearing. If additional evidence is requested by the Board of County Commissioners during a hearing which must be submitted at a later date, the hearing shall be continued to a date/time certain in order to receive the additional evidence.<sup>30</sup>

<sup>27</sup> The Staff Attorney has advised that a greater level of legal sufficiency is reached if the Planning Board reviews applications and makes its recommendation prior to the quasi-judicial hearing than during or after the hearing.

<sup>28</sup> The Planning Board has stated it wants to make a recommendation on the findings required in Section 5.3.2 (e.g., use will promote public health, safety, and welfare; use will maintain or enhance value of contiguous property; location and character of use is in harmony with the area). Staff notes that an applicant cannot be required to divulge the evidence they intend to present at the evidentiary hearing (quasi-judicial hearing). In the event an applicant chooses to withhold information until the quasi-judicial hearing, there may be cases where the Planning Board will not have access to all information at its meeting. In such cases, the Planning Board may note deficiencies in information in its recommendation.

<sup>29</sup> While the Planning Board is expected to attend the public hearing, a quorum of Planning Board members will not be necessary in order to conduct the hearing.

<sup>30</sup> In order to meet legal requirements for quasi-judicial proceedings, staff is suggesting this proposed language. Evidence would no longer be allowed to be submitted in writing after the quasi-judicial hearing. Instead, additional evidence would have to be presented by experts at a subsequent hearing (which does not necessarily have to be a quarterly public hearing date).

- ~~(6) Following review at a public hearing the Special Use permit application shall be referred to the Planning Board for its consideration and recommendation.~~
- ~~(7) The Board of County Commissioners may direct the Planning Board to provide a recommendation by a date certain. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled meetings.~~
- ~~(8) If the Planning Board fails to make a recommendation within the time allotted within subsection (3) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~
- (9) After receipt of any Planning Board recommendation and closure of closing the public hearing, the Board of County Commissioners shall take action upon the application. This action shall be one of the following do one of the following:
- ~~(a) Approval;~~
  - ~~(b) Approval with conditions; or~~
  - ~~(c) Denial.~~
  - (a) Defer action to a later Board of County Commissioners meeting date, or
  - (b) Act upon the application.
- (10) Board of County Commissioner action on the application shall include making appropriate findings of fact pursuant to Section 2.7.11, stating whether the board concludes each of the applicable standards have been met and one of the following:
- (a) Approval;
  - (b) Approval but with specified conditions as provided in Section 2.7.12; or
  - (c) Denial.
- (B) For Class B Special Use Permits, the following shall apply:
- (1) The Board of Adjustment shall review the application during a regularly scheduled public hearing.
  - (2) The Board of Adjustment shall conduct the hearing in accordance within the provisions detailed in this Section as well as those contained within Section 2.12.
  - (3) After completion of closing the public hearing, the Board of Adjustment shall take action upon the application. This action shall be include making appropriate findings of fact pursuant to Section 2.7.11, stating whether the board concludes each of the applicable standards have been met and one of the following:
    - (a) Approval;
    - (b) Approval but with specified conditions as provided in Section 2.7.12; or
    - (c) Denial.

#### ~~2.7.10 Standards of Evaluation~~

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

- ~~(A) The project meets all applicable design standards and other requirements of this Ordinance.~~
- ~~(B) The development can reasonably be completed within the vesting period requested, if any.~~
- ~~(C) Where vesting in excess of two years is requested, the project is located in an area where current issues under study do not involve potential amendments to the Comprehensive Plan and/or this Ordinance.~~

Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable.

- (d) Increasing the square footage of the existing equipment compound by more than 2,500 square feet
- (C) The Planning Director shall, before making a determination as to whether a proposed action is a minor change or a modification, review the record of the proceedings on the original application for approval of the Special Use. The determination shall be based upon the request of the applicant, the review of the record of the approval of the original request and the Planning Director's findings under the criteria of subsection (B) above.
- (D) The Planning Director shall, if it is determined that the proposed action is a minor change, state the findings in writing to the applicant. The applicant shall file an amended site plan, or written statement, outlining in detail the minor change(s) proposed. The Planning Director shall file the amended site plan or written statement with the approved site plan.
- (E) If it is determined that the proposed action is a modification, the Planning Director shall require the applicant to submit a request for modification of the approved special use permit. The following procedures shall be adhered to in the case of a modification:
- (1) The applicant shall provide an amended site plan and written narrative outlining the specific changes requested.
  - (2) The Planning Director shall submit the request to the Board that approved the original application.
  - (3) The Board shall set a public hearing to receive testimony concerning the modification request. Any public hearing called pursuant to a modification of an approved special use permit shall be held in conformity with the relevant public notification requirements contained in this Article.
  - (4) The Board may approve, approve with conditions, or deny the application for a modification.
  - (5) The Planning Director shall file the Board's action in the Planning Department as an amendment request to the original application and shall notify the applicant of the Board's action.

## SECTION 2.8: ZONING ATLAS AND UNIFIED DEVELOPMENT ORDINANCE AMENDMENTS

### 2.8.1 Review and Approval Flow Chart

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The review and approval process for a Zoning Atlas and Unified Development Ordinance Amendment is shown in the procedure's flowchart.

### 2.8.2 Amendment Initiation

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- (A) An amendment to this Ordinance or the Zoning Atlas may be initiated by:
- (1) The Board of County Commissioners on its own motion;
  - (2) The Planning Board;
  - (3) Application, by any person or agency, or
  - (4) The Planning Director.
- (B) If a request for consideration of an amendment proposal is submitted directly to the Board of County Commissioners, said Board may decline to consider the request or may refer the amendment proposal to the Planning Director for preparation of an amendment application.

- (C) Once initiated, all amendments shall be referred to the Planning Board.<sup>31</sup>

### 2.8.3 Contents of Application

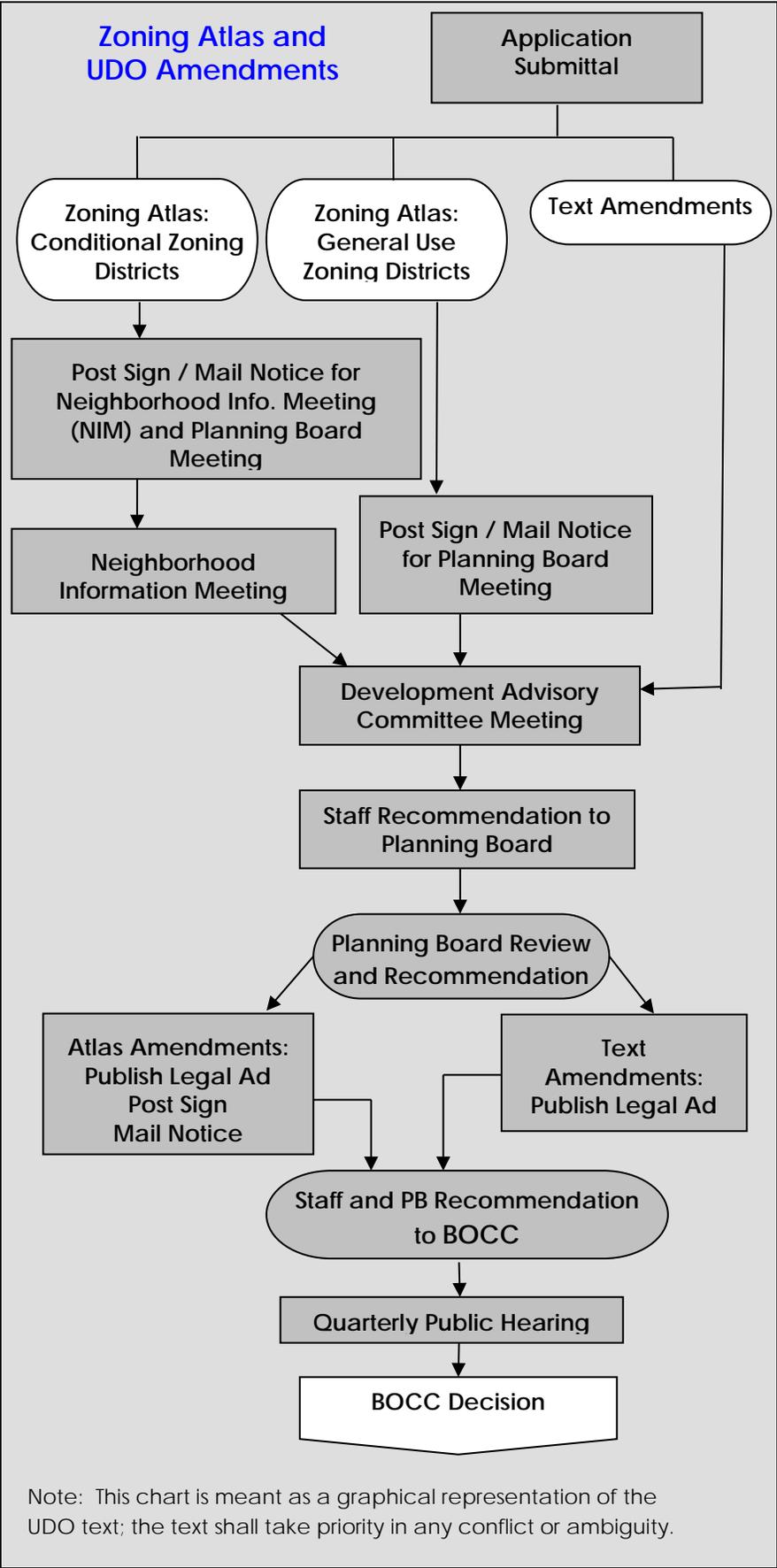
Applications shall contain the following:

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



<sup>31</sup> These proposed revisions here and on subsequent pages incorporate the discussion the Planning Board had in October, November, and December 2014 and which the BOCC discussed on May 12, 2015. The cadence of the review process would be revised to have the Planning Board make its recommendation prior to the public hearing. Notices would be mailed to nearby property owners and a sign(s) would be posted; this revision will notify nearby property owners of potential changes much earlier in the process. Although the Planning Board meeting would not be an official public hearing, the public could address the Planning Board (the existing requirement for written comments only is not proposed to continue in this revised process) and the Planning Board can take all public comments into consideration when making its recommendation.

Proposed flow chart for Section 2.8.3



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

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

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

#### 2.8.5 Review, Analysis and Recommendation

---

- (A) The Planning Director shall cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners.
- (B) Applications for agricultural support enterprise uses located within the Rural Buffer land use classification, as depicted on the Future Land Use Map of the adopted Comprehensive Plan, shall be forwarded to the County's Agricultural Preservation Board for review and comment.
  - (1) The Agricultural Preservation Board shall have 30 calendar days to provide comments. If comments are not received within this timeframe, the application review process shall not be delayed.
  - (2) For purposes of this subsection, agricultural support enterprise uses shall be defined as those permitted in the ASE-CZ zoning district, as detailed within Section 5.2.3 of this Ordinance.

#### 2.8.6 Public Hearing Required

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A public hearing shall be held before adoption of any proposed Zoning Atlas Amendment and/or text amendment to this Ordinance. The Board of County Commissioners ~~and the Planning Board~~<sup>32</sup> shall hear applications and receive public comment for Zoning Atlas amendments and/or text amendments to this Ordinance in a Quarterly Public Hearing.

#### 2.8.7 Notice ~~of~~ Requirements for Planning Board Meetings and Public Hearings

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- (A) The Planning Director shall provide notification of Planning Board meetings at which the Planning Board is to review and make a recommendation on Zoning Atlas amendments. Notifications shall be mailed and posted for the Planning Board meeting in the same manner as for the public hearing, as detailed in (C) and (D) below. The notice shall include the time and location of the Planning Board meeting.<sup>33</sup>
- (B) The Planning Director shall cause notice ~~Notice~~ of the public hearing to review the application and receive public comment ~~shall to~~ be published at least twice in a newspaper of general circulation in the county, stating the time and place of the hearing and the substance of the proposed amendment.

<sup>32</sup> Since a quorum of Planning Board members will no longer be necessary to hold a public hearing, the public hearing would no longer be considered a joint hearing.

<sup>33</sup> The Planning Board has stated that it would like the public to have notice of its meetings when it is considering amendments so the public can attend the meetings and provide comments if desired. This will result in two mailed notifications/sign postings for Zoning Atlas amendments in order to meet statutory requirements for public hearings (mailed/posted at least 10 days but not more than 25 days prior to the public hearing)

- (1) Said notice shall appear in said newspaper for two successive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.<sup>34</sup>
- (C) ~~In the case of For~~ amendments to the ~~zoning atlas~~ Zoning Atlas, the Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.
- (D) ~~In the case of For~~ amendments to the Zoning Atlas, written notice shall be sent by certified mail to the affected property owner and all adjacent property owners at least 15 days, but not more than 25 days, before the public hearing date. Adjacent property owners are those whose names and addresses are currently listed in the Orange County tax records and whose property lies within 500 feet of the affected property.<sup>35</sup>
  - (1) If amendments to the Zoning Atlas are proposed by the County, notice shall be sent by first class mail to all affected property owners and to all adjacent property owners within 500 feet as provided in (D) above.<sup>36</sup>
- (E) The Planning Director shall certify the mailing of all notices to the Board of County Commissioners.

### 2.8.8 Planning Board Review<sup>37</sup>

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

<sup>34</sup> This paragraph has been indented one level to better reflect the cadence of ordinance structure.

<sup>35</sup> Staff notes that State Statutes require that abutting property owners receive mailed notification. Orange County chooses to extend mailed notification to property owners within 500 feet of the affected parcel and also requires certified mail (Statutes do not require notices be mailed via Certified Mail). It is worth noting that at times in the past, staff has received comments from residents about the hassle of having to pick up a letter at the post office if they were not home at the time of delivery attempt.

<sup>36</sup> This paragraph has been indented one level to better reflect the cadence of ordinance structure.

<sup>37</sup> These proposed revisions incorporate the discussion the Planning Board had in October, November, and December 2014 and which the BOCC discussed on May 12, 2015. The cadence of the review process would be revised to have the Planning Board make its recommendation prior to the public hearing. Notices would be mailed to nearby property owners and a sign(s) would be posted; this revision will notify nearby property owners of potential changes much earlier in the process. Although the Planning Board meeting would not be an official public hearing, interested persons could address the Planning Board (the existing requirement for written comments only is not proposed to continue in this revised process) and the Planning Board can take all public comments into consideration when making its recommendation.

- (A) The Planning Board shall allow public comments at its meeting and those comments shall be taken into consideration by the Planning Board in making its recommendation.
- (B) The Planning Board's action on an application shall be one of the following:
  - (1) Recommend approval,
  - (2) Recommend denial,
  - (3) Recommend approval but with specified changes, or
  - (4) Recommend the Planning Board be given extended time to consider the matter.
- (C) In making its recommendation, the Planning Board shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan or any other officially adopted plan that is applicable, and briefly explain why the board considers the action taken to be reasonable and in the public interest.<sup>38</sup>
- (D) Should the Planning Board fail to make a recommendation prior to the quarterly public hearing, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.<sup>39</sup>

### **2.8.9 Action by Board of County Commissioners**

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- (A) The Board of County Commissioners shall ~~not consider enactment of the proposed amendment until~~ hold a public hearing after the Planning Board either makes its recommendation or takes no action on the application ~~as prescribed in Section 2.8.8(C)~~ within 30 days if its referral.
- (B) ~~In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.~~
- (C) After the Board of County Commissioners closes the public hearing, the Board of County Commissioners shall do one of the following:
  - (1) defer a decision to a later Board of County Commissioners meeting date, or
  - (2) make a decision.
- (D) In making its decision, the Board of County Commissioners shall consider adopted plans, comments made at the public hearing, the Planning Board's recommendation, and the Planning Director's recommendation. The Board of County Commissioners shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan or any other officially adopted plan that is applicable, and briefly explain why the board considers the action taken to be reasonable and in the public interest.<sup>40</sup>

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

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- (A) ~~The Erosion Control Officer shall review all of the North Carolina Sedimentation Control Commission's revisions to the State's Model Soil Erosions and Sedimentation Control Ordinance and, within 90 days of receipt of the recommended revisions, submit draft amendments to the North Carolina Sedimentation Control Commission for its consideration and comments.~~
- (B) ~~Within 150 days after receipt of the North Carolina Sedimentation Control Commission's comments, Orange County shall formally consider proposed amendments and, to the~~

<sup>38</sup> Required by NCGS 160A-383.

<sup>39</sup> This paragraph is a slight modification from existing paragraph (C), which is proposed to be deleted. It addresses what happens in the event the Planning Board fails to make a recommendation (namely, that the process moves forward without a Planning Board recommendation).

<sup>40</sup> Required by NCGS 160A-383.

- (1) A stay would cause imminent peril to life or property, or
- (2) The situation appealed from is transitory in nature and, therefore an appeal would seriously interfere with enforcement of the Ordinance.
- (C) In either instance, the Planning Director shall place in the determination facts to support the conclusion if (B)(1) and/or (B)(2) are invoked.
- (D) If (B)(1) and/or (B)(2) are invoked, and approved by the Board of Adjustment, enforcement proceedings shall not be stayed except through the issuance of a restraining order issued by a court of competent jurisdiction. If enforcement proceedings are not stayed, the appellant may file a request for an expedited hearing of the appeal.

#### **2.11.4 Review Procedures**

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- (A) Applications for an appeal of an interpretation shall be reviewed and acted upon by the Board of Adjustment in accordance with the procedures contained in Section 2.12 of this Ordinance.
- (B) The conduct of the hearing shall be consistent with the provisions of Section 2.12 of this Ordinance.
- (C) The Planning Director shall complete an assessment of the application and provide a recommendation on the disposition of the application. The assessment shall include all relevant facts utilized in rendering the disputed decision and the rationale for the interpretation made by the Planning Director.
- (D) The assessment shall be introduced at the hearing and become part of the record.
- (E) Upon hearing all evidence associated with the application, the Board of Adjustment shall close the hearing and render a decision on the matter to affirm, modify, or reverse the decision of the Planning Director.

#### **2.11.5 Findings of Fact**

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The Board of Adjustment shall provide a detailed rationale for its decision in the form of an order to affirm, modify, or reverse the decision of the Planning Director. This order shall provide the necessary justification for the Board's action based on the testimony and evidence entered into the record during the hearing.

#### **2.11.6 Notice Requirements**

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Notice requirements shall follow Section 2.12.6(A). Other subsections of Section ~~2-2-6~~ 2.12.6<sup>41</sup> are not applicable to applications for an appeal of an interpretation.

### **SECTION 2.12: BOARD OF ADJUSTMENT**

#### **2.12.1 General Provisions**

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

#### **2.12.2 Quasi-Judicial Proceedings**

---

- (A) The Board of Adjustment acts in a quasi-judicial capacity. However, it is not intended that its proceedings be conducted as formally as those before courts.
- (B) The rules of procedure and evidence set forth in this Ordinance shall be followed to protect the interests of all parties and the public.

<sup>41</sup> Typographical error that staff recommends correcting as part of this amendment package.

### 2.12.5 Notification of Board Action

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- (A) Within five working days after Board action, the Planning Director shall have available in the Planning Department's office a notice of decision of the Board's action.
- (B) The Planning Director shall notify the parties to an application or appeal of the Board's disposition. This includes the applicant, the property owner if different from the applicant, or any individual who has submitted a written request for a copy prior to the date the decision becomes effective. This notice shall be made by registered or certified mail within five working days of the Board's actions.
- (C) The Planning Director shall keep a copy of the Board's action on file.

### 2.12.6 Notice Requirements for Matters Before the Board

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- (A) For matters other than applications for Class B Special Use Permits which are not published in a newspaper<sup>42</sup>, the Board shall give notice of matters coming before it by causing notice to be placed in a newspaper of general circulation in Orange County. The notice shall appear once a week for two consecutive weeks, the first insertion to be not less than ten days nor more than 25 days prior to the meeting date. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.
- (B) In the case of application for a Class B Special Use permit or variance the Planning Director shall give written notice by certified mail to adjacent property owners. This notice shall be given not less than 15 days mailed at least ten days but not more than 25 days prior to the meeting date. Adjacent property owners are those whose property lies within 500 feet of the affected property and whom are currently listed as property owners in the Orange County tax records.<sup>43</sup>
- (C) The Planning Director shall post on the affected property a notice of the Board meeting at least ten days but not more than 25 days<sup>44</sup> prior to the meeting date.
- (D) In the case of an appeal of a Stop Work Order issued by the Planning Director, the Planning Director shall give written notice by certified mail to the property owner, and/or person(s) engaged in the alleged violation. Notification of adjacent property owners, posting of property, and publication of a hearing notice is not required.

## SECTION 2.13: EXEMPT SUBDIVISIONS

### 2.13.1 Generally

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- (A) Persons proposing divisions of land that do not constitute a subdivision must request a determination of an exempt subdivision status with the Planning Director. Activities that do not constitute a subdivision are found in Section 7.2.1.
- (B) One copy of the final mylar plat and three paper copies of the plat shall be submitted with the request for a determination for an exempt subdivision.

<sup>42</sup> The Staff Attorney has suggested that public hearings for SUPs not be included in legal advertisements since the general public does not have standing in such matters and cannot participate. (State Statutes do not require legal ads for SUP applications). As shown in the remainder of this section, a notice would still be posted on the affected parcel and adjoining property owners would receive mailed notification of the hearing date (which they would also have been informed of via the Neighborhood Information Meeting materials).

<sup>43</sup> Language modification suggested to be consistent with Statutes and to ensure that the outer limit of 25 days in not inadvertently missed. Staff also notes that Statutes do not require notifications to be mailed via certified mail and require that abutting property owners be sent notifications. Orange County chooses to require certified mail and to extend the notification distance to 500-feet.

<sup>44</sup> Language modification suggested to be consistent with Statutes and to ensure that the outer limit of 25 days in not inadvertently missed.

- (4) Historic properties,
  - (5) Scenic corridors,
  - (6) Known bird migratory patterns through the County,
  - (7) Voluntary Agricultural Districts, and
  - (8) Publicly-owned or quasi-public lands.
- (C) In order to participate in the Plan, all owner(s), or their legally binding representatives, shall submit an application on a form prepared by the Planning Department requesting inclusion.
- (D) All telecommunication providers who elect to construct facilities on properties in the Plan shall provide all necessary and requested information to the County's telecommunications consultant.
- (E) Modification of the Plan may be considered annually at the **February first** Quarterly Public Hearing **of the calendar year, normally held in February**. Any applicant requesting modification of the Plan shall make application to the Planning Director on or before December 1st of each year. The fee for modifying the Plan shall be that as set forth in the Orange County Schedule of Fees.
- (F) Withdrawal from the Plan is permitted if any owner submits, to the Planning Director, a notarized statement requesting same. Upon receipt of the request, including any fee for modifying the Plan as set forth in the Orange County Schedule of Fees, the Planning Director shall inform interested parties that the property has been withdrawn from consideration. Removal of the property from the Plan shall be processed as a modification as detailed herein.

### **5.10.3 Annual Telecommunications Projection Meeting (ATPM)**

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**(A) Purpose and Outcome**

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

**(B) Applicability**

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

**(C) Meeting Specifics**

PROPOSED AMENDMENTS TO THE PLANNING BOARD'S  
POLICIES AND PROCEDURES

## PLANNING BOARD POLICIES AND PROCEDURES

### SECTION I: SCOPE

#### A. Purpose

1. To establish a policy and procedures whereby the Orange County Board of Commissioners will establish the specific policies and procedures governing the Planning Board.
2. The Orange County Board of Commissioners may appoint an advisory board whose duty is to serve in an advisory capacity to Orange County Board of Commissioners.

#### B. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards.
2. The Orange County Advisory Board Policy serves as the underlying policy document to which the Planning Board, in addition to this policy and procedure document, is subject. The Orange County Advisory Board Policy is attached hereto as "Exhibit A".
3. In the event that there is a conflict between the Orange County Advisory Board Policy and this Policies and Procedures document this Policies and Procedures document shall control.

#### C. Charge

1. The charge of the Planning Board is contained in Section 1.6.3 of the Orange County Unified Development Ordinance.

The purpose for which the Planning Board was formed: to serve in an advisory capacity to the Orange County Board of Commissioners in regards to planning, zoning, and subdivision matters, as provided in Section 1.6.3 of the Orange County Unified Development Ordinance.

### SECTION II: GOALS AND OBJECTIVES

#### A. Goals

1. The Planning Board shall carry out the duties contained in Section 1.6.3 of the Orange County Unified Development Ordinance to the best of its ability.

#### B. Objectives

1. Acting under the directives of the Board of County Commissioners and with County staff, the Planning Board shall pursue the duties contained in Section 1.6.3 of the Orange County Unified Development Ordinance.

### SECTION III: MEMBERSHIP

A. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards and to appoint members to and remove members from those advisory boards. In acting on this authority the Orange County Board of Commissioners hereby establishes certain general conditions to which applicants and members of advisory boards should conform.

B. Composition

1. Planning Board composition is detailed in Section 1.6.1 of the Orange County Unified Development Ordinance. Additional membership requirements are listed in said Section of the UDO.
2. The Planning Board does not have alternate members.

C. Chair, Vice Chair, and Secretary

1. The Planning Board shall elect by majority vote a Chair and Vice Chair from among its members at the regular meeting in January of each year.
2. Chair and Vice Chair terms of office shall correspond to the requirements of the Orange County Advisory Board Policy.
3. The Secretary of the Planning Board shall be the Planning Director or his/her designee.
4. The Chair and Secretary shall ensure that each Planning Board member is presented with a copy of the Planning Board's charge, scope of authority, membership responsibilities, and code of conduct when the Planning Board member is appointed to the Planning Board.
5. The Planning Board Chair, or Vice Chair in the Chair's absence, shall attend quarterly public hearings and Board of County Commissioners meetings at which a decision is scheduled for items on which the Planning Board has made a recommendation.<sup>1</sup>

## SECTION IV. MEETINGS

A. Staffing

1. The Planning Director shall perform the duties set forth in Section 1.6.4 of the Orange County Unified Development Ordinance.

B. Agendas

1. Items for agendas shall be approved by the Planning Board Chair and staff.

<sup>1</sup> The new requirement was suggested at the May 12, 2015 BOCC work session when the BOCC discussed the public hearing process.

2. The designated staff will develop and distribute to each member an agenda listing the matters to be considered at upcoming advisory board meetings. The regular meeting agenda and materials shall be distributed at least seven (7) calendar days before the regular meeting

C. Date, Time, and Location of Regular Meetings

1. Regular Meetings of the Planning Board shall be held on the first Wednesday of each month. The start time and location of the meeting shall be included on the agenda and shall typically be 7:00 p.m. at the Orange County West Campus Office Building located at 131 West Margaret Lane, Hillsborough. The Planning Board Chair, in consultation with staff, shall have the authority to change the start time and location of a regular meeting to meet any special circumstances, provided the information is included on the distributed agenda.

D. Notice of Meetings

1. Notice of regular Planning Board meetings and agendas shall be made available to all members and interested parties, and to any person who requests such notice, at least seven (7) days in advance of the meeting by e-mail and by posting on the Orange County government website.
2. Notice of public hearings shall conform to the notice requirements of Section 2.3.6 and/or 2.8.7, as applicable, of the Orange County Unified Development Ordinance.
3. Agenda materials for public hearings shall be distributed to Planning Board members and posted on the Orange County government website for interested parties a minimum of ten (10) calendar days prior to the public hearing.

E. Neighborhood Information Meetings<sup>2</sup>

1. Planning Board members shall be encouraged to attend Neighborhood Information Meetings (NIMs) for Class A Special Use Permits and Conditional Zoning Districts. At-Large members and members representing the Township in which a particular development project is proposed are specifically encouraged to attend the NIM.
2. Planning Department staff shall keep Planning Board members informed of upcoming Class A Special Use Permit and Conditional Zoning District NIMs via e-mailed messages. Said e-mail messages

<sup>2</sup> This new procedure is in response to Planning Board members expressing the desire to be kept informed of upcoming NIMs for projects on which the Planning Board will make a recommendation so they may attend the meetings.

shall be sent to Planning Board members on the same date, or shortly after, the notifications are mailed to adjacent property owners.

## SECTION V. ORIENTATION

### A. Attendance

1. Each member shall attend an orientation presented by the Orange County Staff to familiarize the advisory board members with the operation of County government, the Planning Department rules, and the operating procedures of the advisory board.
2. Each voting member will be encouraged to complete the orientation within six weeks of his or her appointment and participate in at least one meeting with the staff.

## SECTION VI. BY-LAWS

### A. By-Laws

1. Any Bylaws adopted by the Planning Board are void and no further bylaws shall be adopted. Procedure shall be governed solely by this policy document and the General Advisory Board Policy Document.
2. Should the Planning Board determine modifications to policies and procedures are necessary the Planning Board may petition the Board of County Commissioners for such modifications.

**ORANGE COUNTY  
BOARD OF COMMISSIONERS AND  
PLANNING BOARD  
QUARTERLY PUBLIC HEARING ACTION AGENDA ITEM ABSTRACT**  
**Meeting Date:** September 8, 2015

**Action Agenda  
Item No.**   C.3  

**SUBJECT:** Unified Development Ordinance Text Amendment – Recreational Land Uses

**DEPARTMENT:** Planning and Inspections

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

Yes

**ATTACHMENT(S):**

1. Comprehensive Plan and Unified Development Ordinance Outline Form - Sign Amendments (UDO/Zoning 2015-01)
2. Proposed UDO Text Amendment(s)

**INFORMATION CONTACT:**

Michael Harvey Planner III (919) 245-2597  
Craig Benedict, Director, (919) 245-2585

**PURPOSE:** To hold a public hearing on Planning Director initiated Unified Development Ordinance (UDO) text amendments to revise existing regulations governing the development and use of recreational land uses.

**BACKGROUND:** The Board of County Commissioners (BOCC) approved the Amendment Outline Form (Attachment 1) for this item at its May 5, 2015 regular meeting.

Staff and the County Attorney's office have determined existing definitions and classification methodology for recreation land uses (i.e. relying on the profit/non-profit status of said operation) is inappropriate and inconsistent with acceptable legal practice. The current methodology has concerned staff for some time and has even complicated recent enforcement efforts relating to the discharge of firearms on private property and addressing the purported establishment of an outdoor recreational field off of Old Greensboro Highway.

Staff is proposing to overhaul our current regulations by:

- a. Establishing a new definition for a recreational land use with no reference to its tax status;
- b. Reviewing the types of recreational land uses permitted in each zoning district and suggesting revisions to ensure consistency;
- c. Developing new standards governing the development of recreational land uses for both private and commercial purposes; and
- d. Developing standards governing the discharge of firearms from both a business and personal enjoyment standpoint.

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

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

**SOCIAL JUSTICE IMPACT:** There is no Orange County Social Justice Goal impact associated with this item.

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

1. Receive the request,
2. Conduct the Public Hearing and accept public, BOCC, and Planning Board comments.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the BOCC in time for its **November 5, 2015** regular meeting.
4. Adjourn the public hearing until **November 5, 2015** in order to receive and accept the Planning Board's recommendation and any submitted written comments.

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

UDO / Zoning-2015-04

Revision(s) of existing definitions and regulations governing the development of recreational facilities within the County.

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## A. AMENDMENT TYPE

**Map Amendments**

- Comprehensive Plan – Future Land Use Element Map:  
From: - - -  
To: - - -
- Zoning Map:  
From: - - -  
To: - - -
- Other:

**Text Amendments**

- Comprehensive Plan Text:  
Section(s):

- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes

Section(s): Section(s):

1. 5.2.1 *Table of Permitted Uses – General Use Zoning Districts;*
2. 5.2.2 *Table of Permitted Uses – Economic Development Districts;*
3. 5.2.3 *Table of Permitted Uses – Conditional Use Districts;*
4. 5.7 *Standards for Recreational Uses, and*
5. *Article 10 Definitions.*

- Other:

## B. RATIONALE

### 1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director has initiated a text amendment to revise existing regulations and definitions of recreational uses.

While reviewing an issue with the Attorney's office it was determined the County's existing definitions and classification methodology for recreation uses (i.e. relying on the profit/non-profit status of said operation) was not appropriate and inconsistent with acceptable legal practice. The regulation and permitting of recreational uses should be based anticipated impacts of said use rather than on its 'tax status'.

### 2. Analysis

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

Recreational uses are defined as follows within the UDO:

- *Recreation Use, Non-Profit:* An indoor or outdoor recreation use owned by a not-for-profit corporation, according to the laws of North Carolina.
- *Recreation Use, Profit:* An indoor or outdoor recreation use owned by an entity other than a not-for-profit corporation.

Recreation Use, Non-profit land uses are allowed, through the issuance of a Class B Special Use Permit (i.e. reviewed and acted upon by the Board of Adjustment) in:

1. All residential zoning (i.e. Rural Buffer (RB), Agricultural Residential (AR), Rural Residential (R-1), Low (R-2), Medium Residential (R-3, R-4), and High Intensity(R-5, R-8, and R-13) districts.
2. Commercial zoning (i.e. Local Commercial (LC-1), Neighborhood Commercial (NC-2), Community Commercial (CC-3), General Commercial (GC-4), and Office Institutional (OI)) districts.
3. All industrial (i.e. Light Industrial (I-1), Medium Industrial (I-2), Heavy Industrial (I-3)) districts.
4. Within a Master Planned Development Conditional Zoning (MPD-CZ) district.

Recreation Use, Profit is allowed within the Community Commercial (CC-3), General Commercial (GC-4), and Light Industrial (I-1) zoning districts as a permitted use (i.e. administrative review and approval by staff).

Within the Buckhorn and Eno Economic Development districts both Recreation Use, Profit and Non-profit land uses are only allowed within both the Low and High Intensity general use zoning designations with the review and approval of a Conditional Use (i.e. rezoning and Class A Special Use Permit) application by the BOCC. There are specific recreational land uses, including a golf driving range,

listed as a permitted use of property within these districts.

Staff has been working to address local resident concern(s) over the purported development of commercial shooting ranges. Currently the County has no land use standards governing the development of such uses (i.e. setbacks, development of protective berms to absorb bullets, etc.).

Staff is proposing to overhaul our current regulations by:

- a. Establishing new definitions for recreational uses;
- b. Reviewing the types of recreational land uses permitted in each zoning district and suggesting revisions;
- c. Developing new standards governing the development of recreational land uses; and
- d. Developing standards governing the discharge of firearms from both a commercial business and personal enjoyment standpoint.

The amendments are necessary to address outdated regulations governing the development of recreational land uses, update existing development standards and requirements, complete a review of acceptable recreational land uses throughout the County, and establish land use regulations governing the discharge of firearms.

Nothing within the proposed amendments will impact the development of parks/recreational amenities by Orange County.

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

**Land Use Goal 2:** Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.

**Land Use Goal 4:** Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

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

N/A

## C. PROCESS

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

- a. BOCC Authorization to Proceed

May 5, 2015

- b. Quarterly Public Hearing

September 8, 2015

c. BOCC Updates/Checkpoints

May 5, 2015 – Approval of UDO Amendment Outline Form  
July 1, 2015 – Planning Board Ordinance Review Committee (ORC) (BOCC receives materials)  
September 8, 2015 – Quarterly Public Hearing  
November 5, 2015 – Receive Planning Board Recommendation

d. Other

N/A

2. **PUBLIC INVOLVEMENT PROGRAM**

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

a. Planning Board Review:

July 1, 2015 – Ordinance Review Committee  
October 7, 2015 – Recommendation

b. Advisory Boards:

Orange County Parks Advisory Board  
– DEAPR staff

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

c. Local Government Review:

Staff transmitted copies of the proposed text amendments to our planning partners in the Towns of Chapel Hill, Carrboro, and Hillsborough for their review and comment on July 10, 2015.

The Orange County Sheriff's office was sent the proposed text amendment on July 10, 2015.

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

d. Notice Requirements

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

e. Outreach:

General Public: Consistent with NC State General Statutes and Orange County Ordinance requirements.

Small Area Plan Workgroup: \_\_\_\_\_

Other: \_\_\_\_\_

### 3. **FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

## D. AMENDMENT IMPLICATIONS

The amendment will revise existing, outdated, regulations governing the categorization and development of recreational land uses.

## E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 2.

### **Primary Staff Contact:**

Michael D. Harvey

Planning

(919) 245-2597

mharvey@orangecountync.us

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE    A = CLASS A SPECIAL USE    B = CLASS B SPECIAL USE    Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Military Installations (National Guard & Reserve Armory) ~											*	*	*		*						
<b>MANUFACTURING, ASSEMBLY &amp; PROCESSING</b>																					
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets												*			*			*	*	*	
Industrial, Heavy ~																				*	
Industrial, Light ~																	*	*	*	*	
Industrial, Medium ~																		*	*	*	
Microbrewery, production only ^	B	B																*	*	*	
Printing & Lithography												*	*	*				*	*	*	
Sawmills ~																*					
Winery, production only ^	B	B																*	*	*	
<b>MEDICAL USES</b>																					
Health Services: Over 10,000 Sq. Ft. ~													*								
Health Services: Under 10,000 Sq. Ft.										*		*	*	*	*						
Hospitals ~													*		*						
Veterinary Clinic		B								*	*	*	*	*	*	*		*	*	*	
Veterinary Clinic, mobile		B	B							*	*	*	*	*	*	*		*	*	*	
Veterinary Hospitals												*	*	*	*	*		*	*	*	
<b>RECREATIONAL USES</b>																					
Botanical Gardens & Arboretums	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	*
Camp/Retreat Center	B	B	B																		
Golf Driving and Practice Ranges		B										*	*					*			
Parks, Public & Non-Profit	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	*

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE    A = CLASS A SPECIAL USE    B = CLASS B SPECIAL USE    Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Recreational Facilities (Non-Profit) <sup>1</sup>	B	B	B	B	B	B	B	B	B	B	B	B	B*	B*		B			B*	B*	B*
Recreational Facilities (Profit)													B*	B*				B*			
Golf Course	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A			A	A	A
<b>RESIDENTIAL USES</b>																					
Dwelling; Mobile Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*						
Dwelling; Multiple Family				*	*	*	*	*	*	*	*	*	*	*	*						
Dwelling; Single-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*						
Dwelling; Two-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*						
Family Care Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*						
Group Care Facility	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B						
Rehabilitative Care Facility										*		*	*								
Residential Hotel (Fraternities, Sororities, and Dormitories) ~								A	A	A			A	A							
Rooming House						*	*	*	*						*						
<b>TELECOMMUNICATIONS</b>																					
Telecommunication Tower – Stealth (75 feet or shorter)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Telecommunication Towers (Over 75 feet and under 200 feet)	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

<sup>1</sup> Staff is eliminating the distinction between profit and non-profit recreation facilities and eliminating references to an entity’s status as a ‘non-profit’ as being a rationale for deciding the review status of a given land use (i.e. staff review, Special Use Permit, etc.). After reviewing the matter with the Attorney’s office staff has determined the ownership status of a recreational land use and/or property owner is not a reasonable means of establishing land use/permitting regulations. Whether or not a recreational facility is a for profit entity or not the impacts of said development on adjacent property owners will be the same. From this standpoint it makes more sense to establish reasonable land use controls instead of relying on the tax status of a property owner when determining the viability of a project or identifying required permit review processes (i.e. administrative review versus a requiring a special use permit).

TABLE OF PERMITTED USES – ECONOMIC DEVELOPMENT DISTRICTS									
* = PERMITTED USE    A = CLASS A SPECIAL USE    B = CLASS B SPECIAL USE    C = CONDITIONAL USE (REZONING & CLASS A SUP)									
USE TYPE	GENERAL USE ZONING DISTRICTS								
	BUCKHORN EDD		ENO EDD		HILLSBOROUGH EDD				
	EDB-1	EDB-2	EDE-1	EDE-2	EDH-1	EDH-2	EDH-3	EDH-4	EDH-5
# Shall be noted on Zoning Atlas as "Zoning District" – CU (e.g., EDB-2-CU)									
Recreational facilities (Non-Profit)	C#	C#	C#	C#					
Recreational facilities (Profit) <sup>2</sup>	C# B	C# *	C# B	C# *					
Repair service, electronic and appliance	C#	C#	*	*					
Research facility		*		*					
Schools, dance, art, and music	*	C#	*	*					
Schools, elementary, middle, and high	A	A	*						
Schools, vocational	C#	C#		*					
Other Services (Hillsborough EDD only)					*		*	*	
<b>TRANSPORTATION</b>									
Bus terminals and garages		C#		*					
Postal and parcel delivery services		*		*					
Rail/bus passenger shelter	*	*	*	*				*	
Surface and structure parking as principal use (When associated with a local or regional transportation goal such as mass transit or park-and-ride)		*		*				*	
Transportation and Warehousing (Sector 48, 49)									*
<b>WHOLESALE TRADE</b>									
Wholesale Trade (Sector 42)									
Durable Goods (see listing below)									*
• Automotive parts and supplies (In an enclosed building)		*		*					

<sup>2</sup> Staff is recommending changing review processes for recreational facilities in what are considered high intensity economic development districts. We currently allow certain recreational land uses as a permitted use of property in these districts and do not believe it was the intent of the County to require both the issuance of a Class A Special Use Permit and a rezoning to allow for the development of those land uses falling within the recreational facilities designation.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.				
Veterinary Hospitals	*	*		
<b>RECREATIONAL USES</b>				
Arts, Entertainment & Recreation (Sector 71)				
Botanical Gardens & Arboretums	*			
Camp/Retreat Center	*			
Golf Driving and Practice Ranges		*		
Guest Ranch	*			
Parks, Public & Non-Profit	*	*		
Recreational Facilities (Non-Profit)		*		
Recreational Facilities (Profit) <sup>3</sup>		*		
Golf Course		*	*	
Race Track (Motorized, etc.) and Go-Kart Track Facilities				*
<b>RESIDENTIAL USES</b>				
Dwelling; Mobile Home	*		*	
Dwelling; Multiple Family		*		
Dwelling; Single-Family	*	*		
Dwelling; Two-Family		*		
Family Care Home				
Group Care Facility		*		
Rehabilitative Care Facility		*		
Residential Hotel (Fraternities, Sororities, and Dormitories)				
Rooming House				
<b>TELECOMMUNICATIONS</b>				

<sup>3</sup> Recommended changes here are to ensure consistency throughout the UDO.

- (e) A statement for setting forth the length of time for which the request is made. Approval shall not exceed one year.

**(2) Standards of Evaluation**

- (a) The relationship between the occupants of the single family unit and the mobile home is established.
- (b) There is a certificate from a licensed physician (MD) stating the necessity of direct care.
- (c) The floor plan of the existing single family unit shows there is no reasonable alternative to the mobile home.
- (d) The proposed site plan shows the location and setbacks of the existing single family unit, the mobile home, and driveways and parking areas. The setbacks for all structures meet or exceed the requirements of the district in which the lot is located.
- (e) There shall be adequate lot area for each unit, according to the minimum requirements of the zoning district in which the lot is located.
- (f) Approval of the Orange County Health Department for water and sewerage disposal facilities, or the approval of the appropriate agency from which sanitary sewer and water will be supplied.
- (g) Approval of the application shall not exceed one year. Renewal shall constitute a new application.

**5.4.5 Buildings for Temporary Use**

**(A) Standards for Class B Special Use Permit**

**(1) Submittal Requirements –**

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) Site plan showing all existing and proposed structures on the site, existing and proposed topography at a contour interval of five feet, existing and proposed landscaping, parking areas, access points, any officially designated flood plains, and other site details.
- (b) A description of the exterior materials, color and construction details.
- (c) Statement of proposed use and length of time building will be in use.

**(2) Standards of Evaluation –**

- (a) The temporary building shall not be used for residential purposes.
- (b) The temporary building shall not be used by operations offering drive-in services.
- (c) The use of the building shall be only for the period of time specified and for the use specified.
- (d) The proposed use is a permitted use in the district in which it is located.

**SECTION 5.5: STANDARDS FOR RESIDENTIAL USES**

**5.5.1 Accessory Structures and Uses**

**(A) General Standards of Evaluation**

- (1) Accessory structures and uses, including recreational uses and amenities,<sup>4</sup> shall not be located in any required front open space and shall conform to the principal setbacks of the district where located unless otherwise provided in this Section.
- (2) An attached private garage, or carport, not exceeding 12 feet in height, may occupy a portion of the required side open space, provided that this does not result in a required side open space of less than 7% of the lot width, nor a total, when combined with the required side open space of the lot immediately adjacent, of less than eight feet.
- (3) Mobile homes as accessory structures to residential uses are prohibited.

### 5.5.2 Efficiency Apartment

#### (A) General Standards of Evaluation

- (1) There shall be no more than one efficiency apartment, whether detached or attached, on any lot.
- (2) The efficiency unit shall contain no more than 800 square feet of gross floor area.
- (3) The residential lot shall meet the minimum lot size requirements of the zoning district in which it is located.
- (4) The efficiency unit shall comply with the N.C. Residential Building Code including minimum light/ventilation and room sizes.
- (5) The efficiency unit shall be accessory to the principal dwelling unit and may be attached or detached.
- (6) The efficiency unit shall be served by an approved water supply and sanitary facilities.
- (7) The efficiency unit shall remain in the same ownership as the primary residence.

### 5.5.3 Home Occupations

#### (A) General Standards

##### (1) Submittal Requirements—

In addition to the completed application form, applicants for a minor or major home occupation shall submit the following to the Planning Department:

##### (a) Minor Home Occupations

- (i) A plot plan of the property on which the home occupation is to be located. The plot plan shall show:
  - a. The location of the residence and/or accessory building in which the home occupation is to be located in relation to existing property lines and adjacent homes;
  - b. The location, number, and means of access to required off street parking areas; and
  - c. The location and type of required landscaping and/or screening.
- (ii) A floor plan of the residence and/or accessory building in which the home occupation is to be located showing the location, size,

<sup>4</sup> Staff has always interpreted a recreational use (i.e. pool, basketball court, etc.) to be an customary accessory use to a residential land use. We are adding language here to formalize this interpretation which will require such uses to comply with established dimensional standards (i.e. setbacks).

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.
- (6) Application materials shall include a comprehensive groundwater study, for facilities expected to use more groundwater on an annual basis than an average single family residence (which uses 240 gallons of water per day) built at the highest density the existing zoning district would allow. For example, if the existing zoning district allows a residential density of 1 unit for 2 acres and the proposed use is on a six acre parcel (which could yield 3 residences), the proposed use(s) may use three times the water used by an average single family residence (or 720 gallons per day, on an annualized basis) before a comprehensive groundwater study is required. The water usage rates of any existing use subject to zoning regulations located on the same lot shall be taken into account when determining if a comprehensive groundwater study is required. Said study shall detail:
  - (a) The amount of water anticipated to be used on a daily, weekly, monthly, and annual basis by regulated uses located on the parcel (e.g., water usage by bona fide farm uses is not required to be included);
  - (b) An analysis of the amount of groundwater withdrawal considered to be safe and sustainable in the immediate vicinity; and
  - (c) An analysis of whether other wells in the vicinity of the proposed use are expected to be affected by withdrawals made by the proposed use.

## SECTION 5.7: STANDARDS FOR RECREATIONAL USES

### 5.7.1 Recreational Uses as Accessory Uses<sup>5</sup>

#### (A) General Standards

- (1) Accessory recreational uses shall not be open to the public or be designed to serve as a recreation amenity for other lots.<sup>6</sup>
- (2) Amenities, equipment, and/or facilities intended for spectators such as bleachers or public address systems shall not be permitted.<sup>7</sup>
- (3) Outdoor sports field lighting, as detailed within Section 6.11, shall be prohibited.<sup>8</sup>

#### (B) Specific Standards

- (1) Shooting activities<sup>9</sup>

<sup>5</sup> There have been issues in the past with property owners allowing for the use of recreation amenities on their property to serve others. To address this issue staff is recommending the imposition of various standards to ensure this use does not become some form of commercial operation.

<sup>6</sup> Staff is not trying to say a property owner cannot have friends over who use a pool or basketball court. What we are attempting to avoid is the de-facto expansion of an accessory use on a parcel property to serve other lots recreational needs. Please note this will not prohibit subdivision developer's from establishing a recreational amenity for their projects. That is addressed in Section 7.11 of the UDO.

<sup>7</sup> Staff has received concerns from various property owners over the years with respect to a private land owners ability to erect amenities, primary athletic field lights, to expand the use of their accessory recreation use. Staff is recommending language that would prohibit the installation/use of equipment allowing for the expanded use of a recreation amenity beyond what is considered customary for a residential setting.

<sup>8</sup> This would prohibit the erection of sports field lights for accessory recreational land uses.

- (a) All shooting or targeting activities shall be designed or oriented to keep projectiles on the property.
- (b) A projectile-proof backstop consisting of concrete, steel, earth or any combination thereof, a minimum 15 feet in height and 30 feet in depth shall be required behind all target and/or shooting areas. All shooting activities shall be directed into this protective backstop.
- (c) Shooting activities and required backstop shall be located a minimum of 300 feet from all property lines, rights-of-way, or access easements and 1,000 feet from occupied dwelling units external to the property.
- (d) Warning signs indicating shooting activities are occurring on the property shall be posted at one hundred-foot intervals along the perimeter of the property.
- (e) A Type B land use buffer, as detailed within Section 6.8, shall be required around the perimeter of the portion of property where shooting activities occurs.<sup>10</sup>
- (f) The use of exploding shells, targets, or other similar materials shall be prohibited.
- (g) Nothing within Section 5.7.1 shall be construed as limiting or otherwise restricting hunting activities or the use of fireworks.

**(2) Motor Cross and Go-Kart Tracks<sup>11</sup>**

- (a) All tracks and/or paths shall be located a minimum of 100 feet from a property line.
- (b) A track or path shall not cross over active septic fields.
- (c) A Type B Land Use Buffer, as detailed in Section 6.8, shall be required around the portion of the property where the track is located.

**5.7.15.7.2 Recreational Facilities**

**(A) General Standards of Evaluation**

- (1) The standards included herein shall be applied to ~~the following for-profit~~ recreational facilities, including but not limited to:
  - (a) Tennis ~~clubs~~courts,
  - (b) Swimming pools ~~clubs~~,
  - (c) Racquet ball courts,
  - (d) Squash ~~courts~~clubs,
  - (e) Pitch and putt courses,
  - (f) Amusement ~~areas~~arcades,
  - (g) Bowling alleys,

<sup>9</sup> There have been issues associated with the discharge of firearms on private property, focusing on noise and public safety issues. Staff is attempting to establish reasonable land use regulations to address safety concerns by requiring discharged items remain on the subject parcel and for those areas where a gun is discharged to be set distances from a property line and occupied dwelling units.

<sup>10</sup> This will require either the erection of a land use buffer, or preservation of existing vegetation, around the area of the property where shooting activities are occurring.

<sup>11</sup> In the late 1990's and early 2000's staff received numerous complaints from local property owners over the use of motorcycles and go-karts on private property. We are amending existing regulations to establish setback and land use buffer requirements to address these concerns.

- (h) Skating rinks,
- (i) Shooting ranges,
- ~~(j)~~ Billiard and pool halls,
- ~~(j)(k)~~ Paintball,
- ~~(l)~~ Indoor athletic facilities, and
- ~~(k)(m)~~ Gymnasiums, and
- ~~(l)~~ Other similar uses.

(2) The minimum lot area shall be two acres.

~~(3)~~ Facilities may include such features as play and training areas, athletic field lights, public address systems, parking for patrons and staff, storage/office facilities, and restroom/locker facilities.

~~(3)(4)~~ No building shall be closer than 20 feet from any right-of-way or property line or than the minimum requirements of the district in which it is located. or 20 feet to the public right-of-way or private property line, whichever is greater.

~~(4)(5)~~ Outdoor athletic fields shall comply with the provisions of Section 6.11 and shall be located a minimum than 50 feet from a property line.<sup>12</sup>

~~(6)~~ All outdoor recreational facilities shall utilize a combination of screens, fences, nets, berms, or vegetation to keep equipment on the property.<sup>13</sup>

~~(B)~~

**(B) Standards for Specific Uses<sup>14</sup>**

**(1) Shooting Ranges**

~~(a)~~ Outdoor shooting ranges shall install a projectile-proof backstop at least 20 feet in height and 50 feet in depth, consisting of concrete, steel, earth or any combination thereof. All shooting activities shall be directed into this protective backstop.<sup>15</sup>

~~(b)~~ Outdoor shooting ranges and required backstop shall be located a minimum of 600<sup>16</sup> feet from all property lines, streets right-of-way or access easements or 1,000 feet from a occupied dwelling unit external to the property.

~~(c)~~ A Type F land use buffer, as detailed in Section 6.8, shall be required around the perimeter of all outdoor shooting ranges.

~~(d)~~ Outdoor shooting ranges shall only operate from 10:00 a.m. to 6:00 p.m. daily.

<sup>12</sup> This is a new regulation designed to protected adjacent property owners from the glare of outdoor lighting generated by an outdoor recreational facility.

<sup>13</sup> This regulation is designed to ensure any equipment used as part of an outdoor facility (balls, etc.) stays on the property.

<sup>14</sup> These regulations would govern the development of commercial shooting ranges.

<sup>15</sup> Originally staff was proposing to restrict all shooting activities to being conducted indoors. Unfortunately this would effectively eliminate skeet shooting as being a permitted activity. Staff, in consultation with the Attorney's office, determined such a requirement could be inconsistent with current provisions of State law related to the regulation of sport shooting activities. Staff revised the proposal to allow for outdoor shooting activities and has recommended setback and land use buffer regulations in an attempt to address concerns over the activity.

<sup>16</sup> This is double the recommended setback for a private shooting range as an accessory use.

- (e) Indoor shooting ranges shall be located a minimum of 50 feet from all property lines, streets right-of-way, or access easement. Such facilities shall be completely enclosed.
- (f) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the property of all indoor shooting ranges.
- (g) Nothing in Section 5.7.2 (B) shall be construed as regulating hunting activities or the operation of a shooting range developed for, and exclusively utilized by, local, State, and/or Federal law enforcement agencies.
- (h) Nothing in Section 5.7.2 (B) shall be construed as prohibiting the holding of turkey shoots or other similar activities as a fundraiser or community event so long as such activities occur no more than twice in a given calendar year on a parcel of property.<sup>17</sup>

**(2) Outdoor Paintball**

- (a) Areas where paintball activities occur shall be a minimum of 50 feet from all property lines, street rights-of-way, or access easements.
- (b) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the portion of property where paintball activity occurs.

**(3) Pitch and Putt Courses**

- (a) Pitch and putt areas shall be located a minimum of 40 feet from all property lines, street rights-of-way, or access easements.
- (b) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the portion of property where pitch and putt course activity occurs.

**(C) 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) A description of the exact type facility planned, the amount of area, including and number of members or participants expected, a site plan showing siting and size of existing and proposed building.
- (b) Access, parking, service and recreation areas for all planned facilities or existing facilities.
- (c) Plans, and elevation for all proposed and existing structures and descriptions of the color and nature of all exterior materials.
- (d) A landscape plan showing, at the same scale as the site plan, existing and proposed trees, shrubs, ground cover and any other landscape materials.
- (e) A signed statement from the owners or operators that there shall be no activity allowed that will have adverse effects on adjacent property. The statement shall also include a complete list of all recreational activities that will take place on the site.

**(2) Standards of Evaluation<sup>18</sup>**

<sup>17</sup> Staff did not want to inadvertently prohibit what has become a lucrative fundraising opportunity for several local organizations. As a result language was included to allow for turkey shoots and other similar activities to occur.

~~(a) The property shall have direct frontage on, and obtain vehicular access from, a public road.<sup>19</sup>~~

~~(a)(b) Lot size shall be adequate for the method of sewage disposal proposed, and for the proposed recreational uses.~~

~~(b)(c) The site plan should show the boundaries of the site, the distances to the nearest residential structures, proposed or existing access points, parking and service areas, location of outdoor recreational facilities, and location of existing or proposed buildings.~~

~~(c)(d) The landscape plan shall be at the same scale as the site plan and should show how the facilities will be screened from the adjacent properties, in addition to proposed or existing trees, shrubs and ground cover.~~

~~(d)(e) Elevations of all structures and buildings. The structure shall be of such a nature as to preserve the residential character of the area.~~

~~(e)(f) There are no adverse impacts on the adjacent roads or residential property.~~

~~5.7.25.7.3 Golf – Driving and Practice Range~~

~~(A) Standards for Class B Special Use Permit~~

~~(1) Submittal Requirements~~

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

- ~~(a) A site plan showing the following:
 
  - ~~(i) All existing or proposed buildings, tee areas, lawn areas,~~
  - ~~(ii) Distances to nearest residential structures,~~
  - ~~(iii) Access road(s) to the site, with an indication of type of proposed surface;~~
  - ~~(iv) On-site parking and roads, with an indication of type of proposed surface; and~~
  - ~~(v) All other requirements as indicated in section 2.5.~~~~

~~(2) Standards of Evaluation~~

- ~~(a) Unless public sewer is proposed to be extended, the adequacy for the method of sewage disposal will be determined by the lot size and soil suitability. Appropriate letters from the Orange County Environmental Health Department, local jurisdictions and/or the State Division of Environmental Management shall be submitted to indicate preliminary approval.~~
- ~~(b) The landscape plan shall show how the facilities will be screened from the adjacent properties. A Type D 50 foot buffer, as indicated in Section 6.8, shall be observed around the perimeter of the property. This buffer shall be located outside of the required dimensional area indicated in d. below.~~
- ~~(c) The site plan, as required in Section 2.7, shall be reviewed by the Orange County Recreation and Parks Director.~~

<sup>19</sup> Staff is recommending this change in an attempt to ensure there is adequate access to a recreation facility and to avoid the use of private roadways supporting such activities.

### **Public Interest Area**

Land which contains public or quasi-public uses such as state parks, research forests or known archaeological or historical sites.

### **Public Safety Hazard and/or Nuisance**

Anything, which is injurious to the safety or health of an Orange County neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

### **Public Vehicular Areas**

Street in a platted subdivision which are open for vehicular traffic and have been offered for dedication to the public and where the offer for dedication has not been accepted.

### **Recreation Use, Non-Profit**

~~An indoor or outdoor recreation use owned by a not for profit corporation, according to the laws of North Carolina.~~

### **Recreation Use, Profit**

~~An indoor or outdoor recreation use owned by an entity other than a not for profit corporation.~~

### **Recreation Space**

Exterior area appropriately improved for common recreational use. Part of total and livability open space.

### **Recreation Space Ratio**

Recreation space ratio is the minimum square footage of open space in residential areas, suitable by location, size, shape, access and improvements, required for each square foot of gross land area. This area is a public or private exterior area improved for recreation of all residents, having a least dimension of 50 feet, and average dimension of 100 feet and a minimum area of 10,000 square feet.

### **Recreation Vehicle (RV)**

A self-propelled or towed vehicle, qualified to be licensed by the appropriate State Agency, and is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, providing short term recreational living accommodations, designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

### **Recreational Facility – For Profit Facilities**

~~Includes uses such as tennis clubs, swim clubs, racquet ball, squash clubs, pitch and putt courses, amusement areas, bowling allies, skating rinks, shooting ranges, billiard and pool halls, indoor athletic facilities and such similar uses. A use of property occurring indoors and/or outdoors providing recreational amenities, activities, or services to either the general public or for compensation.~~<sup>20</sup>

### **Reference level**

The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within Special Flood Hazard Areas designated as Zone AE, the reference level is the top of the lowest floor.

### **Regulatory flood protection elevation**

The Base Flood Elevation plus the Freeboard establishes this elevation. In Special Flood Hazard Areas where Base Flood Elevations have been determined, this elevation shall be the Base Flood Elevation plus two feet of freeboard.

### **Rehabilitative Care Facility**

<sup>20</sup> Language based on comments from the County Attorney's office in an attempt to make enforcement easier.