

**SUMMARY NOTES
ORANGE COUNTY PLANNING BOARD
OCTOBER 2, 2013
ORDINANCE REVIEW COMMITTEE**

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

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

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

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – TELECOMMUNICATION FACILITIES
To review and comment upon proposed revisions to the UDO regarding Telecommunication Facilities.
This amendment is in response to Session Law 2013-185.
Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey: Reviewed the abstract. The State of North Carolina, in passing this Session Law, has put additional limitations on local governing bodies, municipalities and counties with respect to how they are processing applications for telecommunications facilities. Specifically, they limited the amount of time devoted to a co-locating application to 45 days, limited the total amount of outside consultant fees we can charge. This is an amendment to bring us compliance with State law.

Paul Guthrie: Local government cannot require that doesn't mean that you can't ask for it. You just can't require it, correct?

Michael Harvey: That is a correct statement, we also can't utilize it if they say no as a reason to deny or recommend denial. We can't use it a basis for any other reason to say they didn't comply or they don't comply with the law.

Michael Harvey: We are going to be presenting this at the November quarterly public hearing.

Pete Hallenbeck: First off, raising a tower above 199 feet means you suddenly have to add lighting to it. It is a big undertaking for a tower company.

Paul Guthrie: Over 200 feet requires FAA consideration.

Michael Harvey: Yes, and we have standards if you are proposing a 200 foot tall tower it is part of the submittal that the FAA has given initial clearance.

Pete Hallenbeck: So, between the FAA and the ordinances, there are a lot of good reasons for the companies to put in towers that are less than 200 feet tall. The second thing is that raising a tower is not trivial. You can't just nail a 2 x 4 and make it higher.

AGENDA ITEM 3: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – BOARD OF ADJUSTMENT OPERATION
To review and comment upon proposed revisions to the UDO related to Board of Adjustment operation.
This amendment is in response to Session Law 2013-126.

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

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57 Michael Harvey: Reviewed abstract. The General Assembly has modernized and provided uniformity of the Board of
58 Adjustment. We are updating our code to be consistent with State Law.

59
60 Pete Hallenbeck: Are there any questions? Ok, it makes sense to me. Thank you.

61
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63 **AGENDA ITEM 4: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – HOME OCCUPATION**
64 To review and comment upon proposed revisions to the UDO regarding Home Occupation standards.
65 **Presenter:** Ashley Moncado, Special Projects Planner

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67 Paul Guthrie: For the record, we have a home business in my house.

68
69 Lisa Stuckey: I have a home business in my house too.

70
71 Pete Hallenbeck: I work out of my home too.

72
73 Ashley Moncado: (Reviewed abstract).

74
75 Paul Guthrie: Have you been able to identify what the traffic work load it going to be to the planning department as a result of
76 these regulations?

77
78 Michael Harvey: I have no concerns based on the provisions. I believe the regulations proposed are reasonable. I don't
79 believe it will increase the workload tremendously.

80
81 Paul Guthrie: You don't know how many applications you will get. I think technically the provision with regard to the number
82 of special events is still going to exclude the art tour because the number of 30 will breach that. We have a very strong arts
83 community and I need to think through how you do not become an impediment to that.

84
85 Ashley Moncado: Other counties don't have limits on people but limitations on parking and other things. They are more
86 restrictive.

87
88 Paul Guthrie: You want to look at that dynamic.

89
90 Pete Hallenbeck: You can get a special permit for that event.

91
92 Paul Guthrie: The arts community is already buzzing about this. My other concern is the parking requirement could be
93 difficult for some folks. The other comment is regarding the maintenance; you may want to clarify that and be prepared that
94 may be a problem.

95
96 Pete Hallenbeck: On page 86 regarding parking, parking shall be met off the street and not required yard area, so when
97 people come to these events, they can't park on the street.

98
99 Ashley Moncado: They would have to be in your area and not in the setback.

100
101 Pete Hallenbeck: Could you put setback instead of yard area?

102
103 Perdita Holtz: No, because of the way yard is defined and used in the UDO and other places.

104
105 Michael Harvey: There is an opportunity for you to go through a process to seek regress. We don't want to have a commercial
106 impact on a private road.

108 Pete Hallenbeck: On the outside storage space, there is 500 square feet, for the major home occupations that is part of the
109 application. In the minor home occupation application, where is that?
110
111 Ashley Moncado: It should be indicated on the plot plan.
112
113 Michael Harvey: We are not regulating the UPS truck for home delivery. If your home occupation needs a vehicle to support
114 operations there is a limit. Also, there are specific land uses prohibited as home occupations.
115
116 Paul Guthrie: Zoning ordinance cannot prohibit a small business homeowner from owning a bigger truck, which I question.
117
118 Michael Harvey: By using it as part of the business parked on the property, it can become regulated.
119
120 Ashley Moncado: We will look into it again.
121
122 Maxecine Mitchell: Can they load the equipment and leave?
123
124 Ashley Moncado: That it still be used in connections with home occupations.
125
126 Maxecine Mitchell: It would not be permitted?
127
128 Ashley Moncado: No.
129
130 Maxecine Mitchell: If someone is already using his or her vehicle?
131
132 Ashley Moncado: That standard is already in place.
133
134 James Lea: If I decide to start a tree service and had a two or three ton truck, I could not park that at my house?
135
136 Ashley Moncado: No.
137
138 Tony Blake: If it fit in a garage, could you keep it there?
139
140 Ashley Moncado: No.
141
142 Pete Hallenbeck: Let us see what people feel is a good size.
143
144 Paul Guthrie: I am not too upset with the one ton. This is a thicket and reality is it going to be very controversial when you hit
145 someone that has been grandfathered in.
146
147 Herman Staats: I think if you consider, I have dually which is more than one ton. One ton may be too low.
148
149 James Lea: I would agree. Some of the language suggests that you could not have dually there.
150
151 Maxecine Mitchell: I don't know what a one-ton truck is. If you have a landscaping business, they have trucks and long
152 trailers.
153
154 Ashley Moncado: There is language already in the UDO.
155
156 Tony Blake: Any language that is not a split axle truck.
157
158 Pete Hallenbeck: Rather than a ton limit, an axle limit.
159
160 Lisa Stuckey: Delivery trucks, UPS or FedEx are okay with me.
161

162 Pete Hallenbeck: If you had a small business, would this be something you could apply for a variance on.

163
164 Michael Harvey: I am hesitating to say yes because there may not be hardship. This is not to promote small business use for
165 a property but home occupation. Anybody can apply for anything. I don't see the limitation that is providing such a limit on
166 your use of property as warranting a variance.

167
168 Pete Hallenbeck: I would say one or two ton.

169
170 Paul Guthrie: The five-acre provision worries me because of the entrepreneur starting out.

171
172 Pete Hallenbeck: I think part of the five acres is that we are applying the same rules whether you had a one acre lot or 100
173 acre farm.

174
175 Ashley Moncado: We'll look into all the suggestions and changes and get back to you at the November Planning Board
176 Meeting.

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179 **AGENDA ITEM 5: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – AGRICULTURAL SUPPORT ENTERPRISES**
180 To review and comment upon proposed revisions to the UDO implement a program commonly referred
181 to "Agricultural Support Enterprises".
182 **Presenter:** Perdita Holtz, Planning Systems Coordinator

183
184 *ITEM WAS POSTPONED UNTIL END OF REGULAR PLANNING BOARD MEETING DUE TO LACK OF TIME*

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186 **AGENDA ITEM 6: ADJOURNMENT**

187
188 Meeting was adjourned.

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191 THE MEETING RECONVENED AT THE CONCLUSION OF THE REGULARLY SCHEDULED PLANNING BOARD MEETING
192 FOR THE LAST ITEM ON THE ORC AGENDA

193
194 **MEMBERS PRESENT:** Peter Hallenbeck (Chair), Cheeks Township Representative; Lisa Stuckey, Chapel Hill Township
195 Representative; Maxecine Mitchell, At-Large Bingham Township; Paul Guthrie, At-Large, Chapel Hill Township; Tony Blake,
196 Bingham Township Representative; Andrea Rohrbacher, At-Large Chapel Hill Township;

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199 **STAFF PRESENT:** Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor; Perdita Holtz, Planning
200 Systems Coordinator; Tina Love, Administrative Assistant II

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205 to "Agricultural Support Enterprises".
206 **Presenter:** Perdita Holtz, Planning Systems Coordinator

207
208 Perdita Holtz: (Reviewed Abstract) DEAPR is working on a manual and hopefully it will be available as part of the quarterly
209 public hearing in February 2014.

210
211 Tony Blake: I thought there was an acreage requirement as well.

212
213 Perdita Holtz: No, there is no acreage requirement, there may have been at one time.

214

215 Michael Harvey: The acreage requirement was only based on complying with the bona fide farm tax program.

216
217 Paul Guthrie: If the actual crop, what the central farm managed, planted, and prepared the soil for the crop on is on
218 somebody else's land, could they use it under the definition?

219
220 Perdita Holtz: That noncontiguous parcel is normally considered part of the bona fide farm. Where it comes into play about
221 being off the farm is if you have another bona fide farm that wants to come back and sell products like in a farm store.

222
223 Perdita Holtz: (Continued review of item)

224
225 Pete Hallenbeck: What does the metal fabrication shop fit in under?

226
227 Perdita Holtz: That's one of the more interesting things that was part of the previous work, metal fabrication shop would
228 normally fit under the Light Industrial zoning use category and a lot of these uses would have fit under umbrella uses that
229 appear in our zoning ordinance. Part of the problem is that people were saying we want to see these uses exactly in the
230 zoning code and so we went ahead and put them in the zoning code because there is no harm in doing so other than you
231 might end up with a whole bunch of pages in your table of permitted uses if you were to list every single possible use ever.
232 There is an effort to help the farmers and so we are doing that. There was apparently one farmer that does metal fabrication
233 on the side and so I think that is one of the reasons that ended up as we do to have this defined.

234
235 Pete Hallenbeck: So this is metal fabrication shop as in blacksmithing, making rod iron, and fixing large tractor things that
236 need lots of welding because of those two.

237
238 Perdita Holtz: Metal fabrication shop is the facility that is engaged in the shaping of metal or similar materials for wholesale or
239 retail trade. One of the standards for metal fabrication shop is that if it is located in an AR zoning district is that it has to be
240 located on a bona fide farm so the standard gets very important because some of these uses would only be allowed in those
241 zoning districts if they are located on a bona fide farm.

242
243 Pete Hallenbeck: There are things that require not a site plan but a plot plan and there may some interesting discussion about
244 exactly that the terms are.

245
246 Lisa Stuckey: What's a nonfarm use of farm equipment, like tractor ride?

247
248 Perdita Holtz: That's like a farmer using his tractor to grading work during the off season.

249
250 Lisa Stuckey: So what is the plot plan going to show?

251
252 Perdita Holtz: It is actually on page the page beforehand, of all the specifications of a plot plan. It is going to show property
253 lines. This is more for someone doing landscaping or grading type of activities off the farm.

254
255 Michael Harvey: To give you an example, we were dealing with a farmer that actually rented out equipment to be used either
256 in landscaping, grading, and also did septic tank work on the side and he had equipment. As all the equipment had a farm
257 application, legally as I interpret the statute there wasn't much we could do. We required him to give us a plot plan showing
258 where it was parked, where any activity that was not farm related occurred and that there was any necessary infrastructure to
259 support this ancillary business. This project has gone back to 2001, this is one of the genesis for this nonfarm use of farm
260 equipment was this particular farmer and others who had similar relationships with people.

261
262 Perdita Holtz: On the plot plan, there are standards they have to meet. One of them is that they have to screen the
263 equipment from adjacent property and roads and outdoor storage of material such as gravel, dirt, plants shall be limited in
264 growth, area, and duration. There are a couple of others so they would have to show on the plot plan where equipment is
265 being stored and how they are going to achieve the screening and where their outdoor storage and materials is going to take
266 place.

267

268 Andrea Rohrbacher: On equipment, I haven't heard the word that the equipment must be operable. What if it is non-operable
269 and it just sits there for a decade?

270
271 Perdita Holtz: If it is sitting on a bona fide farm, we really can't do anything about it.

272
273 Tony Blake: Do you have sawmills in here? We have some folks that have sawmills out where I am and they mill their own
274 trees and such.

275
276 Perdita Holtz: That would probably be a bona fide farm and that is not regulated. Only if you are bring in lumber from other
277 places would it be regulated.

278
279 Perdita Holtz: The BOCC has requested specific input from advisory boards, the Planning Board and also the Agricultural
280 Preservation Board on this project. They would like to have input on whether more intensive uses should be removed from
281 consideration.

282
283 The consensus of the group was that this item should be considered further at a November ORC meeting.

284
285 **AGENDA ITEM 6: ADJOURNMENT**

286
287 Meeting was adjourned

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Pete Hallenbeck, Chair