ORANGE COUNTY PLANNING DEPARTMENT
131 W. MARGARET LANE, SUITE 201
HILLSBOROUGH, NORTH CAROLINA 27278

AGENDA
ORANGE COUNTY PLANNING BOARD

ORANGE COUNTY WEST CAMPUS OFFICE BUILDING
131 WEST MARGARET LANE – LOWER LEVEL CONFERENCE ROOM (ROOM #004)
HILLSBOROUGH, NORTH CAROLINA 27278
Wednesday, October 8, 2014
Regular Meeting – 7:00 pm

No.	Page(s)	Agenda Item
1.		**CALL TO ORDER**
2.		**INFORMATIONAL ITEMS**
	3-4	**a.** Planning Calendar for October and November i. Next regular meeting on Nov. 5th ii. Dinner meeting with BOCC & quarterly public hearing on Nov. 24th
3.		**APPROVAL OF MINUTES**
	5-10	September 3, 2014 Regular Meeting
4.		**CONSIDERATION OF ADDITIONS TO AGENDA**
5.		**PUBLIC CHARGE**

Introduction to the Public Charge

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

Public Charge

The Planning Board 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.

6. **CHAIR COMMENTS**

No.	Page(s)	Agenda Item
7.	**11-26**	**2030 COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT -** To make a recommendation to the BOCC on government-initiated amendments to the Future Land Use Map of the Comprehensive Plan to assign County land use classifications to approximately 500 acres of property that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ) located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This item was heard at the September 8, 2014 quarterly public hearing. **Presenter:** Tom Altieri, Comprehensive Planning Supervisor
8.	**27-48**	**ZONING ATLAS AMENDMENT -** To make a recommendation to the BOCC on government-initiated amendments to the Zoning Atlas to assign County zoning districts to approximately 500 acres of property that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ) located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This item was heard at the September 8, 2014 quarterly public hearing. **Presenter:** Tom Altieri, Comprehensive Planning Supervisor
9.	**49-70**	**UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT -** To make a recommendation to the BOCC on government-initiated amendments to the text of the UDO to require that a neighborhood information meeting be held at least 45 days prior to the public hearing regarding applications for a Class A or Class B Special Use Permit. This item was heard at the September 8, 2014 quarterly public hearing. **Presenter:** Michael Harvey, Current Planning Supervisor
10.	**71-76**	**UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT -** To either provide input or make a recommendation to the BOCC on government-initiated amendments to the text of the UDO to change the existing public hearing process for Comprehensive Plan-, UDO-, and Zoning Atlas-related items/amendments. This item was heard at the September 8, 2014 quarterly public hearing. **Presenter:** Perdita Holtz, Planning Systems Coordinator
11.		**COMMITTEE/ADVISORY BOARD REPORTS** **a.** Board of Adjustment
12.		**ADJOURNMENT**

IF AN EMERGENCY OCCURS, OR IF YOU ARE RUNNING LATE FOR THE MEETING, PLEASE LEAVE A VOICE MAIL FOR PERDITA HOLTZ (919-245-2578).

October 2014

October 2014

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November 2014

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Sep 28 - Oct 4	**Sep 28**	**29**	**30**	**Oct 1**	**2**	**3**	**4**
					7:00pm Fire Department Work Session (Whitted Building)		
Oct 5 - 11	**5**	**6**	**7**	**8**	**9**	**10**	**11**
			7:00pm BOCC Reg Meeting (Whitted Meeting Facility)	7:00pm *PLANNING BOARD MEETING (note change of date) (West Campus Office Bldg)			
Oct 12 - 18	**12**	**13**	**14**	**15**	**16**	**17**	**18**
		7:30pm Board of Adjustment (West Campus Office Bldg)	7:00pm BOCC Work Session (Whitted Building)	7:00pm OUTBoard Meeting (West Campus Office Bldg)	7:00pm BOCC/Town of Carrboro Joint Meeting (Southern Human Services)		
Oct 19 - 25	**19**	**20**	**21**	**22**	**23**	**24**	**25**
			7:00pm BOCC Reg Meeting (Southern Human Services)				
Oct 26 - Nov 1	**26**	**27**	**28**	**29**	**30**	**31**	**Nov 1**

*Planning Board Member Attendance Required

Return to Agenda

November 2014

November 2014

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December 2014

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	Sun	Mon	Tue	Wed	Thu	Fri	Sat
Oct 26 - Nov 1	**Oct 26**	**27**	**28**	**29**	**30**	**31**	**Nov 1**
Nov 2 - 8	**2**	**3**	**4**	**5**	**6**	**7**	**8**
				7:00pm *PLANNING BOARD MEETING (West Campus Office Bldg)	7:00pm BOCC Reg Meeting (Whitted Meeting Facility)		
Nov 9 - 15	**9**	**10**	**11**	**12**	**13**	**14**	**15**
		7:30pm Board of Adjustment (West Campus Office Bldg)	7:00pm BOCC Work Session (Whitted Meeting Facility)				
Nov 16 - 22	**16**	**17**	**18**	**19**	**20**	**21**	**22**
			7:00pm BOCC Reg Meeting (Southern Human Services)	7:00pm Assembly of Government (Whitted Meeting Facility) 7:00pm OUTBOARD Meeting (West Campus Office)			
Nov 23 - 29	**23**	**24**	**25**	**26**	**27**	**28**	**29**
		*5:30 BOCC/ Planning Board Dinner Meeting (Whitted Meeting Facility) *7:00 PM Quarterly Public Hearing (Whitted Meeting Facility)			HOLIDAY	HOLIDAY	
Nov 30 - Dec 6	**30**	**Dec 1**	**2**	**3**	**4**	**5**	**6**

*Planning Board Member Attendance Required

Return to Agenda

D R A F T

MINUTES
ORANGE COUNTY PLANNING BOARD
SEPTEMBER 3, 2014
REGULAR MEETING

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

MEMBERS ABSENT: Buddy Hartley, Little River Township Representative; Maxecine Mitchell, At-Large Bingham Township; Bryant Warren, Hillsborough Township Representative;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Tom Altieri, Comprehensive Planning Supervisor, Patrick Mallett, Planner II, Abigaile Pittman, Transportation Planner, Tina Love, Administrative Assistant II

OTHERS PRESENT: Terry Boylan, Dave Hausfel, Glenn Futrell

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS

a) Planning Calendar for September and October

AGENDA ITEM 3: APPROVAL OF MINUTES

JULY 2, 2014 ORC MEETING NOTES

JULY 2, 2014 REGULAR MEETING

MOTION by Lisa Stuckey to approve the July 2, 2014 ORC meeting notes. Seconded by Tony Blake.
VOTE: UNANIMOUS

MOTION by Laura Nicholson to approve the July 2, 2014 Planning Board minutes with changes. Seconded by James Lea.
VOTE: UNANIMOUS

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

AGENDA ITEM 5: PUBLIC CHARGE

Introduction to the Public Charge

The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development laws of the County. The general purpose of OCPB is to guide and accomplish coordinated and

Return to Agenda

harmonious development. OCPB shall do so in a manner which considers the present and future needs of its citizens and businesses through efficient and responsive process that contributes to and promotes the health, safety, and welfare of the overall County. The OCPB will make every effort to uphold a vision of responsive governance and quality public services during our deliberations, decisions, and recommendations.

AGENDA ITEM 6: CHAIR COMMENTS

Pete Hallenbeck: If you are on the Planning Board, you need to be at the public hearing.

AGENDA ITEM 7: MAJOR SUBDIVISION PRELIMINARY PLAT: To review and make a decision on a Major Subdivision Preliminary Plat application. Pleasant Green Woods, Phase IV, located off of Pleasant Green Road. The plan is consistent with the Concept Plan Flexible Design Option reviewed and approved by the Planning Board in February 2014. The Plan calls for 16 single family residential lots on a 46.34 acre tract. 16.53 acres (35.6%) of the site is reserved for primary and secondary open space.
Presenter: Patrick Mallett, Planner II.

Patrick Mallett reviewed abstract.

Paul Guthrie: It is an acre and one half?

Patrick Mallett: Yes. There is a 100 foot perimeter setback so that setback would go further down.

Terry Boylan: That is one of those properties that between the setbacks and the stream buffer and there is no suitable soil for septic, it is above and beyond what is required for the open space. It is not developable.

Pete Hallenbeck: If the person that bought the lot didn't want to buy the land, it would be space you could not do anything with unless the residents got together and agreed upon something to put there.

Terry Boylan: Correct.

Pete Hallenbeck: What is the acreage of the fire pond?

Terry Boylan: The lot itself is about an acre and one half and that is ¾ of an acre. It is designed to hold water during the 50 year drought and some depth below that.

Pete Hallenbeck: You want it to be at least 4 feet deep preferably 5 feet which would give you 44,000 gallons.

Patrick Mallett: We will make sure the fire marshal is satisfied with the volume.

Pete Hallenbeck: Is Paper Birch a DOT road?

Patrick Mallett: They have submitted an application and the right of way has been dedicated.

Terry Boylan: There are some items being taken care of in terms of BMPs.

Pete Hallenbeck: So you are still moving in that direction. The road to the development will be DOT standard.

Terry Boylan: Yes.

Return to Agenda

Patrick Mallett: Typically the right of way is dedicated and then the road can be accepted but they want to see everything.

Lisa Stuckey: Behind lot 1, there is an open space that is a recreation lot, how would the other residents access that lot?

Terry Boylan: That lot can be access from Paper Birch Lane by foot.

Lisa Stuckey: Across the Hobbs Lot, that is an easement that exists that is part of the …

Terry Boylan: That is the stream buffer.

Lisa Stuckey: So is it an easement for residents or just to keep people off?

Terry Boylan: That is an extension of this buffer for the stream.

Tony Blake: Are you putting in the hydrants?

Terry Boylan: In talking to the fire marshal, they prefer to be able to extend the hose. They have a platform they put it on a floating dock instead of a hydrant.

Pete Hallenbeck: I would suggest you talk to the fire department serving this.

Patrick Mallett: With a Major Subdivision, you go through the concept, preliminary plan and then they go through that exercise. At this point, we make sure it can work.

Michael Harvey: We have been meeting our Orange County Emergency Services to discuss regional impoundment systems to address fire access issues. Part of that problem that came up with Triple Crown Farm was a concern there were no fire ponds in the area and the developer who was willing to address his comments was not willing to build a fire pond that would kill two of his lots to satisfy an impoundment need globally so we are meeting to discuss regional impoundment systems.

Paul Guthrie: Are you far enough along that you are satisfied that the density of the wells on this site will be able to provide the water? Do you know what the water conditions are that you will be drilling into?

Terry Boylan: There has been no individual well testing.

Paul Guthrie: You have densities there that I would be curious that if you had any idea how deep you will have to go or is that still to be found out?

Terry Boylan: That is still to be found out.

Paul Guthrie: Are you comfortable with the location of the septic fields and the density of the septic fields as opposed to being adjacent to a cluster of wells?

Terry Boylan: We showed the wells with 100 foot rings. We had a consultant come out and preliminarily locate the septic and an engineer from Environmental Health came out to determine the depths and the types of systems they will support.

Paul Guthrie: In locating the septic fields, were you using an anticipated house size?

Terry Boylan: They are sized for four or five bedroom houses.

Patrick Mallett: Environmental Health is satisfied.

Return to Agenda

Andrea Rohrbacher: I have the same question Lisa had about the feasibly of access to the buffer area.

Pete Hallenbeck: I think it is interesting on this fire pond, putting an open space area, you are taking this thing that is nice and required, a pond and giving it an opportunity to make a nice open space area with a water feature.

MOTION by Lisa Stuckey to approve the proposal as presented in our packet. Seconded by Tony Blake.
VOTE: UNANIMOUS

AGENDA ITEM 8: MAJOR SUBDIVISION PRELIMINARY PLAT: To review and make a decision on a Major Subdivision Preliminary Plat application. Stroud's Creek located southwest of the intersection of NC Highway 57 and Stroud's Creek Road. The Plan is consistent with the Concept Plan Flexible Design Option reviewed and approved by the Planning Board in June 2014. The Preliminary Plat calls for 14 single family residential lots on a 25.33 acre tract. 17.21 acres (67.96%) of the site is reserved for primary and secondary open space.
Presenter: Patrick Mallett, Planner II.

Patrick Mallett Reviewed abstract.

Pete Hallenbeck: Are there any questions or comments?

MOTION by Tony Blake to approve this application. Seconded by Laura Nicholson.
VOTE: UNANIMOUS

AGENDA ITEM 9: UNIFIED DEVELOPMENT ORDINANCE PRIVATE ROAD AND ACCESS STANDARDS: To receive information about a current multi-department advisory board project involving the review of private road and access standards and to receive the Board's comments.
Presenter: Abigaile Pittman, Transportation and Land Use Planner

Abigaile Pittman presented abstract.

Lisa Stuckey: Would the pullover roads apply just to 18 foot wide roads?

Abigaile Pittman: It would apply to any one way road.

Paul Guthrie: What is the definition of a private road?

Abigaile Pittman: One that is not accepted for public maintenance. Not built to public maintenance standards.

Paul Guthrie: There are no use standards or number of properties attached to define it; it has to do strictly with the shape and construction of the road.

Abigaile Pittman: Yes.

Pete Hallenbeck: A private road is one that NCDOT does not maintain.

Paul Guthrie: Any existing non-public road servicing more than one household is grandfathered until an effort is made to do some sort of planning development.

Abigaile Pittman: The new regulations are not retroactive.

Paul Guthrie: What would trigger on that situation this proposal?

Return to Agenda

Michael Harvey: Someone coming in and trying to subdivide any of those existing lots. There are two dual issues here. We have an addressing ordinance that is enforced by Orange County Land of Records via the attorney's office that spells out road serving x number of lots or certain size has to be name. That is part of the ordinance. County subdivision regulations have been adopted over the years. We didn't get private road standards until 1998-2000 so the County has a history of subdivision development some of which have been done under different standards. We also have several properties in the County that have exercised their right under the general statute to develop their property or subdivide their property through the exempt subdivision process. By state law, we have no review authority and cannot hold them to any specific requirements identified in our subdivision standards.

Abigaile Pittman: The standard we are recommending to address those exempt subdivisions is to develop a requirement that all newly created lots have access to a complying road, public or private, for emergency responders.

Tony Blake: I do want to have this discussion around water supply at some point.

Lisa Stuckey: I do think it would be a good idea to say that if you have a gate we can't get through, there should not be any discussion about who owes what for whom.

Craig Benedict: It is important how we differentiate what would go in the UDO and what needs to be handled by other ordinances.

Paul Guthrie: In the emergency access to trails systems, there are two sides to it, one is providing the access points but the trails may not be able to accommodate the size vehicles we have. We may need smaller vehicles.

Pete Hallenbeck: I like the three lots on the driveway.

Craig Benedict: You will probably need a road name.

Pete Hallenbeck: We have a few roads in Efland we cannot get the fire trucks down. With the pullovers, anyone who had to go through a 1700 foot road would appreciate those pullovers.

AGENDA ITEM 8: COMMITTEE/ADVISORY BOARD REPORTS:

a. Board of Adjustment

Michael Harvey: There were two meetings in August. The first was a regular meeting reviewing an application for Chestnut Ridge United Method Church for a daycare which requires a Class B Special Use permit which was issued. There was special hearing on August 27 to review an application to allow for PSNC natural gas line to be installed in the county. The permit was issued and we will see what will come from that. I always expect litigation. Unfortunately, I believe there is no issue that anyone can argue to overturn the decision because PSNC, at the onset of the meeting filed their formal objection that North Carolina state law regulations actually preempts local approval of utility lines. A majority of the issues at the hearing involved a perception by local residents that PSNC was less than forth coming with information, they were rude and refused to provide required information and they are not being adequately compensated for these new lines. There were also arguments there have been gas lines explosions as such the County cannot issue the permit. There were also arguments that this would have a negative impact on adjacent property value.

Pete Hallenbeck: What is the size of the line?

Michael Harvey: A 16 inch line from Mebane Oaks to the existing Regulator Station in the Town of Carrboro planning jurisdiction on NC Highway 86. The reason for this permit was because it went through private property

Paul Guthrie: Do you have any information as to whether this large pipeline that was announced from West Virginia to Eastern North Carolina will run near Orange County?

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Michael Harvey: No but it is running into severe opposition in West Virginia.

AGENDA ITEM 12: ADJOURNMENT:

MOTION by Paul Guthrie to adjourn. Seconded by Tony Blake.
VOTE: UNANIMOUS

Return to Agenda

ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 8, 2014

Action Agenda Item No. 7

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

DEPARTMENT: Planning and Inspections **PUBLIC HEARING: (Y/N)** Yes

ATTACHMENT(S):
1. Comprehensive Plan/Future Land Use Map and UDO Amendment Outline Form (CP and Zoning 2013-02)
2. FLUM Hillsborough Surrounds
3. FLUM Classification Comparison
4. Orthophotos and Table Summarizing Existing Land Uses

INFORMATION CONTACT: (919)
Tom Altieri, Planning, 245-2575
Craig Benedict, Planning, 245-2592

PURPOSE: To make a recommendation on a County initiated amendment to the 2030 Comprehensive Plan Future Land Use Map (FLUM) affecting approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This amendment assigns County future land use classifications to properties that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ), which is to become effective October 1, 2014. This item is companion to Action Agenda Item No. 8, "Zoning Atlas Amendment."

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

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

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

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

Public Hearing

Return to Agenda

The proposed 2030 Comprehensive Plan FLUM amendment was heard at the September 8, 2014 joint public hearing. No members of the public spoke on the proposed amendment. However, the BOCC had primarily one question:

> *Why is staff recommending application of the "Agricultural Residential" FLUM classification versus the "Rural Residential" classification to the properties effected by the Town's ETJ relinquishment?*
>
> Staff response – Beyond the materials that were included in the joint public hearing packet, staff has included a larger view of the FLUM that includes the entire Hillsborough periphery (Attachment 2). Staff posits that the Agricultural Residential FLUM category is consistent with FLUM categories applied in the general amendment area and the only "base" (i.e. not an overlay) that currently exists north of Interstate 85 along the Hillsborough fringe and Eno River.
>
> Although the Rural Residential FLUM category is not substantially different from Agricultural Residential, there are some subtle differences (Attachment 3), which also contributed to staff's recommendation. For example the Population Density Locational Criteria for Rural Residential is "Generally 1 dwelling unit per acre" compared to Agricultural Residential, which is "Dispersed low-density typical of agricultural areas."
>
> Furthermore, the Agricultural Residential FLUM category is consistent with the existing land uses present in the amendment areas. Attachment 4 provides orthophotos of the amendment areas and a table that summarizes existing land uses. Fifty-six percent (56%) of the amendment area consists of Public/Quasi-Public/Institutional (i.e. Duke Forest, Assoc. for the Preservation of the Eno River Valley, State of NC, NCDOT, Krishna Temple, etc.) existing land uses and 19% of the amendment area is under the Present Use Value program.

A video of the joint public hearing can be viewed from the following link:
http://orange-nc.granicus.com/MediaPlayer.php?view_id=2&clip_id=750

Procedural Information

In accordance with Section 2.3.10 of the Unified Development Ordinance, any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation

The Planning Director recommends **approval** of the proposed 2030 Comprehensive Plan FLUM amendment based on the following:

a. Staff has been authorized by the Board of County Commissioners to pursue implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014); and

b. This amendment is consistent with land use goals and objectives of the 2030 Comprehensive Plan; and

Return to Agenda

c. The request for the amendment has been deemed complete in accordance with the requirements of Sections 2.3 and 2.8 and of the Unified Development Ordinance; and

d. The proposed FLUM classification and overlays are consistent and compatible with those of the surrounding area and in general, are of a very low density residential and conservation minded nature.

Link to Additional Background Information
Hillsborough-Orange Interlocal Land Management Agreement and Map (Includes guidance for Town ETJ adjustment)-
http://orangecountync.gov/planning/documents/Hillsborough-OrangeInterlocalLandManagementAgreement.pdf

Joint Resolution Amending the Hillsborough-Orange Interlocal Land Management Agreement (Includes additional guidance for Town ETJ adjustment)-
http://orangecountync.gov/planning/documents/JointResolutionAmendingOC-HillsboroughCOCAAgreement.pdf

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

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

1. Deliberate as necessary on the proposed amendment;
2. Consider the Planning Director's recommendation to approve the 2030 Comprehensive Plan FLUM amendment; and,
3. Make a recommendation to the BOCC on the proposed 2030 Comprehensive Plan FLUM amendment in time for the November 6, 2014 BOCC meeting.

Return to Agenda

Attachment 1

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

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

A. AMENDMENT TYPE

Map Amendments (Also see maps attached at end)

☒ Future Land Use Map:
From: Town of Hillsborough Land Use Classification
To: Agricultural Residential (Portions to include Watershed and Resource Protection, and Public Interest Area overlays)

☒ Zoning Map:
From: Town of Hillsborough Zoning
To: AR Agricultural Residential and PID Public Interest District (Portions to include Watershed Protection, Special Flood Hazard, and Major Transportation Corridor Overlays)

☒ Other: To address Town of Hillsborough Extraterritorial Jurisdiction (ETJ) retraction

Text Amendments

☐ Comprehensive Plan Text:
Section(s):

☐ UDO Text:
☐ UDO General Text Changes
☐ UDO Development Standards
☐ UDO Development Approval Processes
Section(s):

☒ Other:

Return to Agenda

B. RATIONALE

1. Purpose/Mission

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

2. Analysis

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

a. Staff has been authorized by the Board of County Commissioners to pursue implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014).

b. This amendment is consistent with land use goals and objectives of the 2030 Comprehensive Plan.

c. The request for the amendment has been deemed complete in accordance with the requirements of Sections 2.3 and 2.8 and of the Unified Development Ordinance.

d. The proposed Future Land Use Classification, zoning districts, and overlays are consistent and compatible with those of the surrounding area and in general, are of a very low density residential and conservation minded nature.

Proposed Changes

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

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

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

9864212218	9864294255	9864165305	9854989358

Return to Agenda

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

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

Background

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

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

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

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

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Return to Agenda

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

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

Objective LU-1.1:
Coordinate the location of higher intensity / high density residential and non-residential development with existing or planned locations of public transportation, commercial and community services, and adequate supporting infrastructure (i.e., water and sewer, high-speed internet access, streets, and sidewalks), while avoiding areas with protected natural and cultural resources. This could be achieved by increasing allowable densities and creating new mixed-use zoning districts where adequate public services are available.

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

Objective LU-6.1:
Undertake a comprehensive effort to inform and involve the citizens of Orange County in the land use planning process.

Objective LU-6.2:
Maintain a cooperative joint planning process among the County municipalities and those organizations responsible for the provision of water and sewer services to guide the extension of service in accordance with the Comprehensive Plan, the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Land Use Plan, and the policies of the municipalities.

4. **New Statutes and Rules**

N/A

C. PROCESS

1. **TIMEFRAME/MILESTONES/DEADLINES**

a. BOCC Authorization to Proceed

November 19, 2013

b. BOCC Public Hearing

September 8, 2014

c. BOCC Updates/Checkpoints

May 8, 2014 – Adopted Joint resolution amending Interlocal Agreement
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Return to Agenda

d. Other

Summary of Timeline and Key Steps
Adjustment of Hillsborough Extraterritorial Jurisdiction (ETJ) and Application of County Land Use Element Map Classifications and Zoning

2013	
September 9	Town adopted resolution of intent
November 19	BOCC authorization to proceed
December	Preparation of public outreach and notification materials (i.e. ETJ Q&A document and maps)
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Return to Agenda

October 8, 2014

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

3. FISCAL IMPACT

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

D. AMENDMENT IMPLICATIONS

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

E. SPECIFIC AMENDMENT LANGUAGE

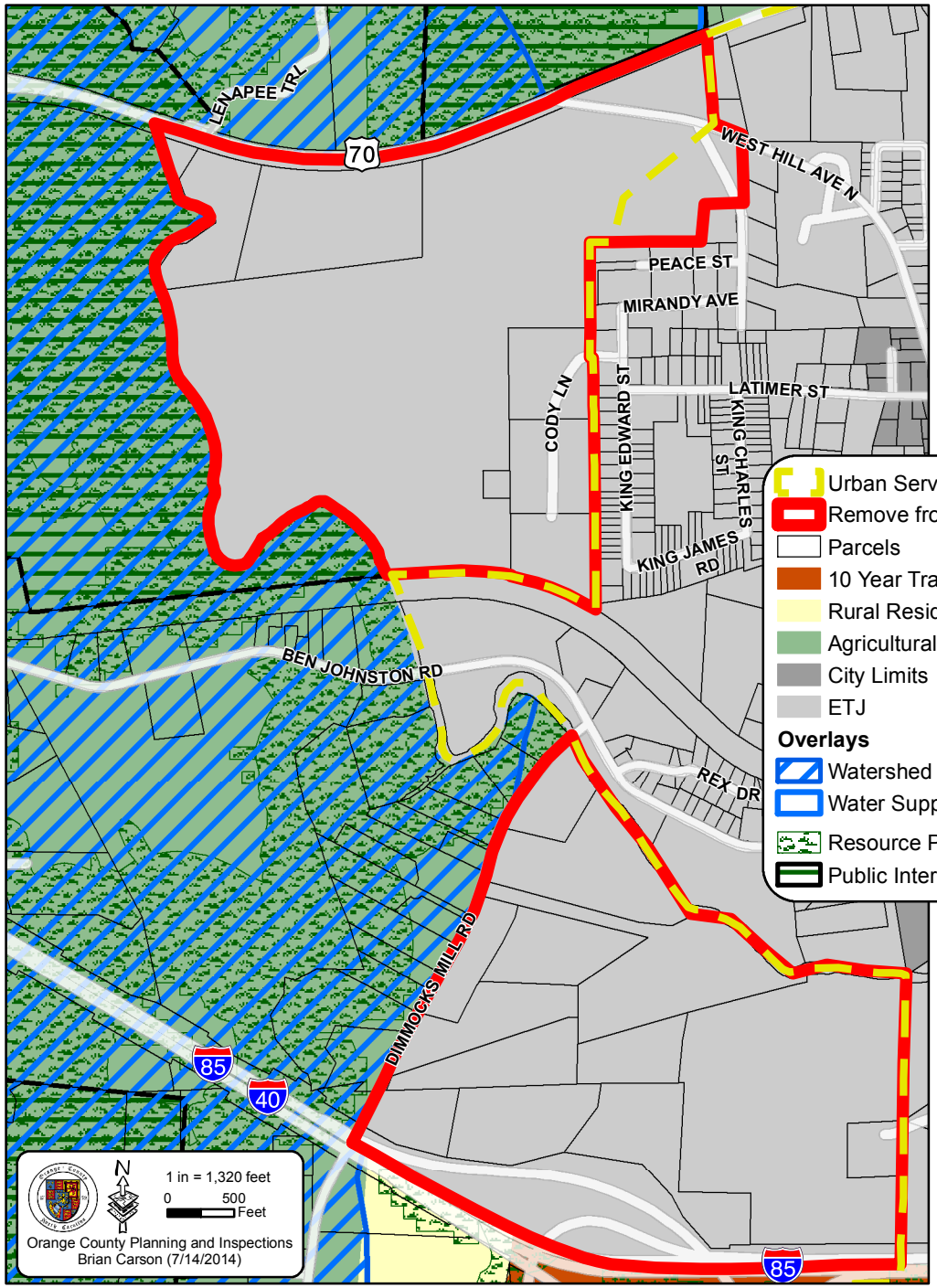
N/A

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

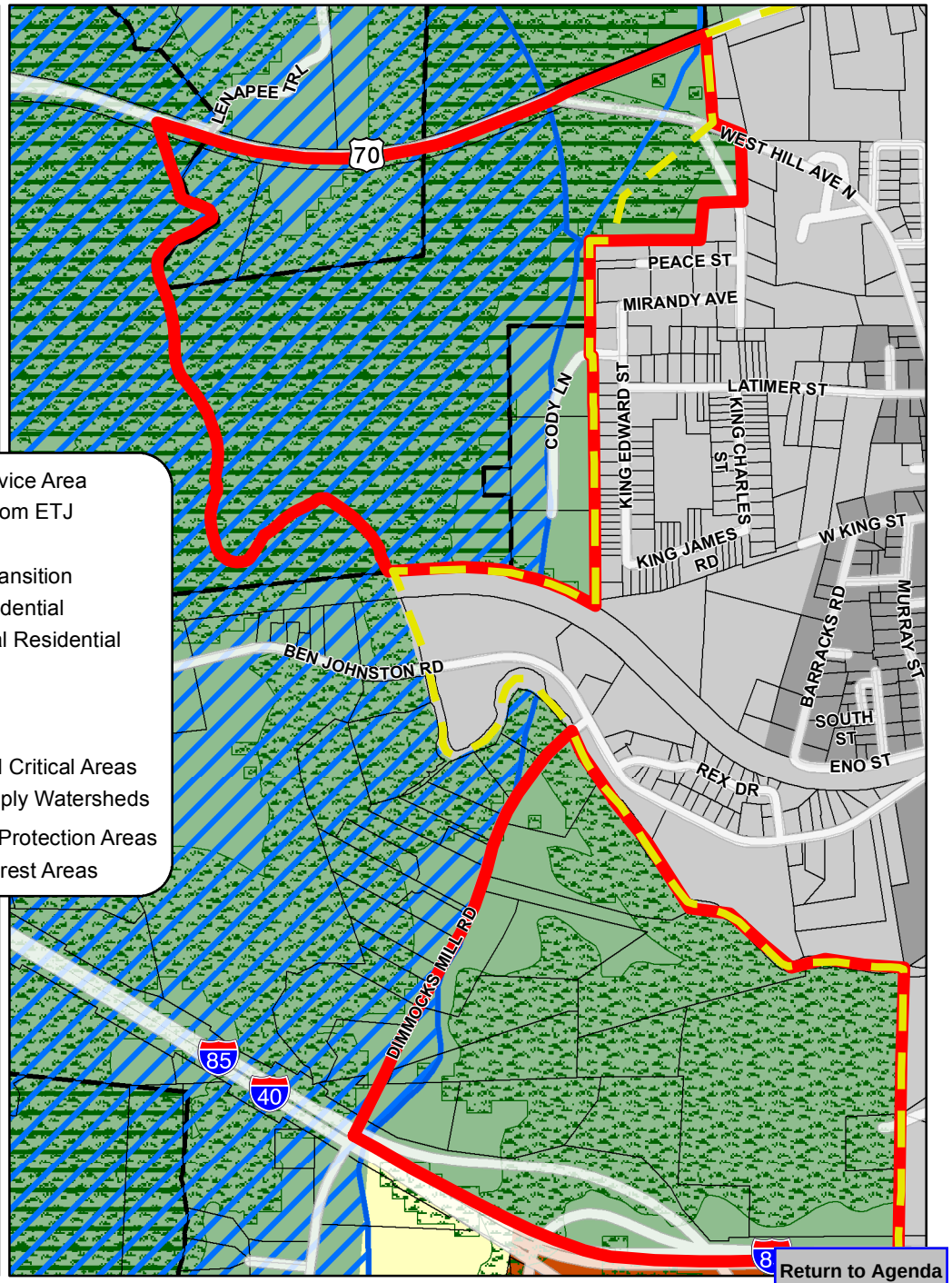
Return to Agenda

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

Current **Future Land Use** Map



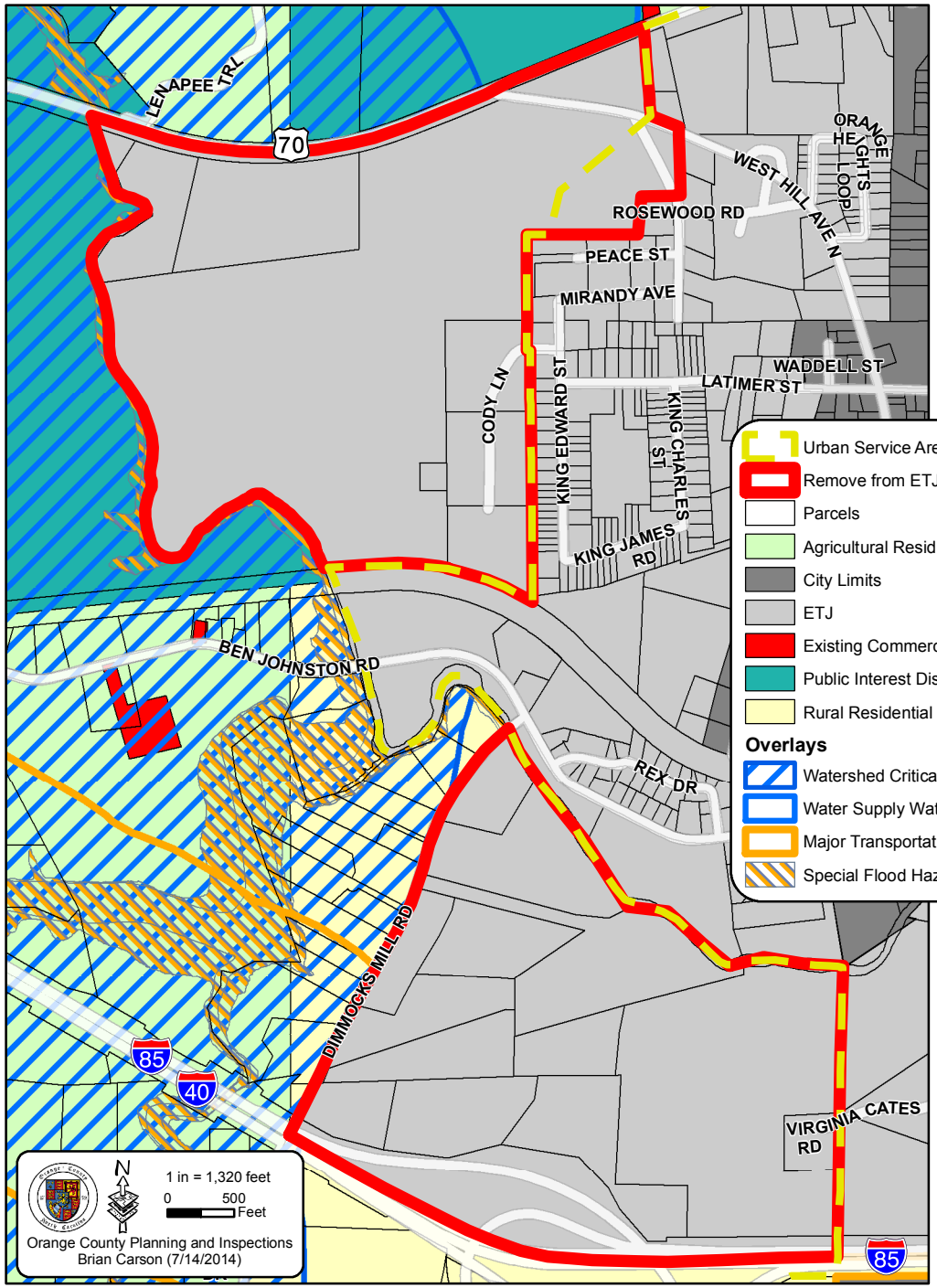
Proposed **Future Land Use** Map



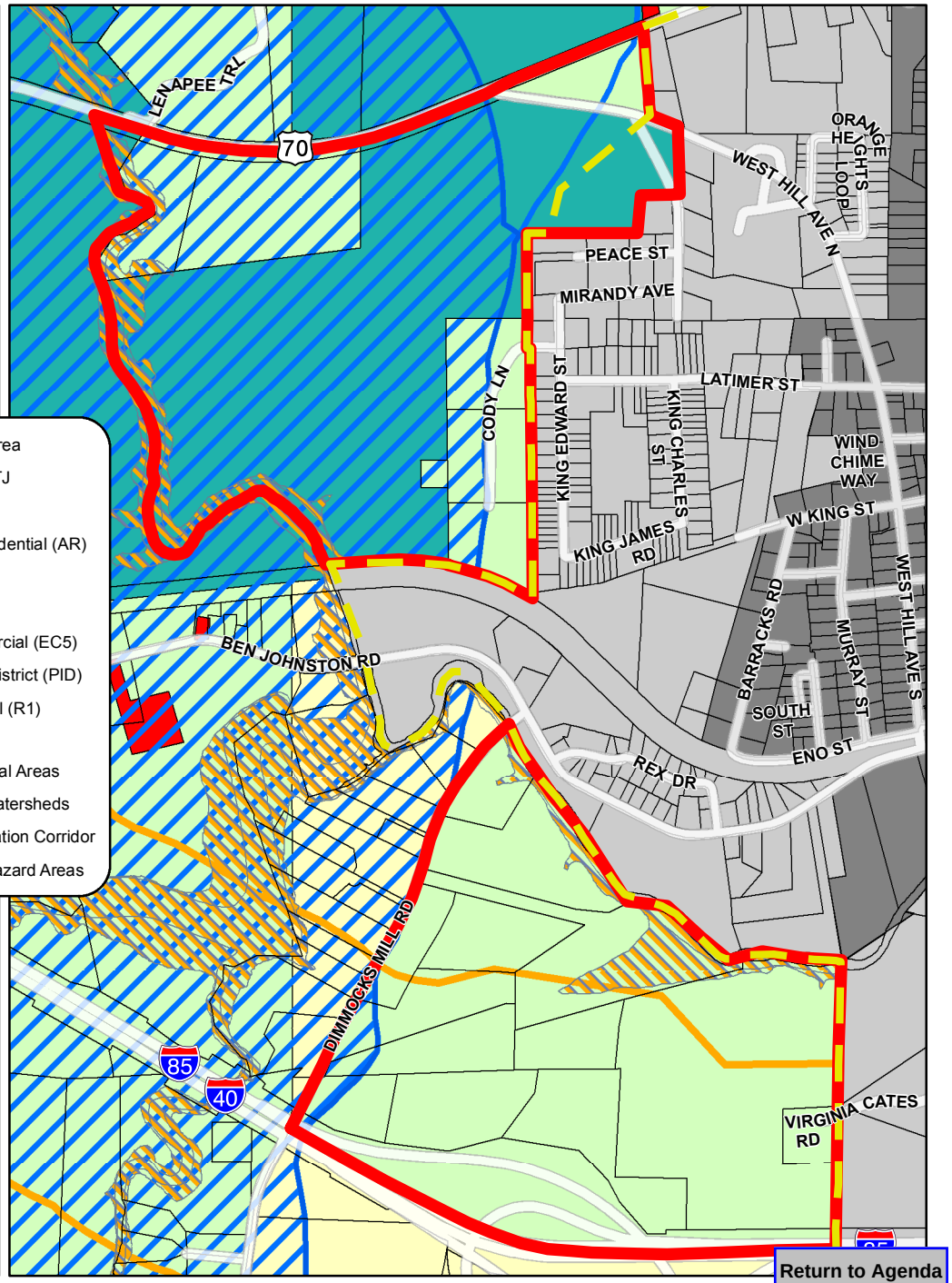
Return to Agenda

Assignment of County Zoning to Areas Removed from Hillsborough ETJ

Current **Zoning** Map



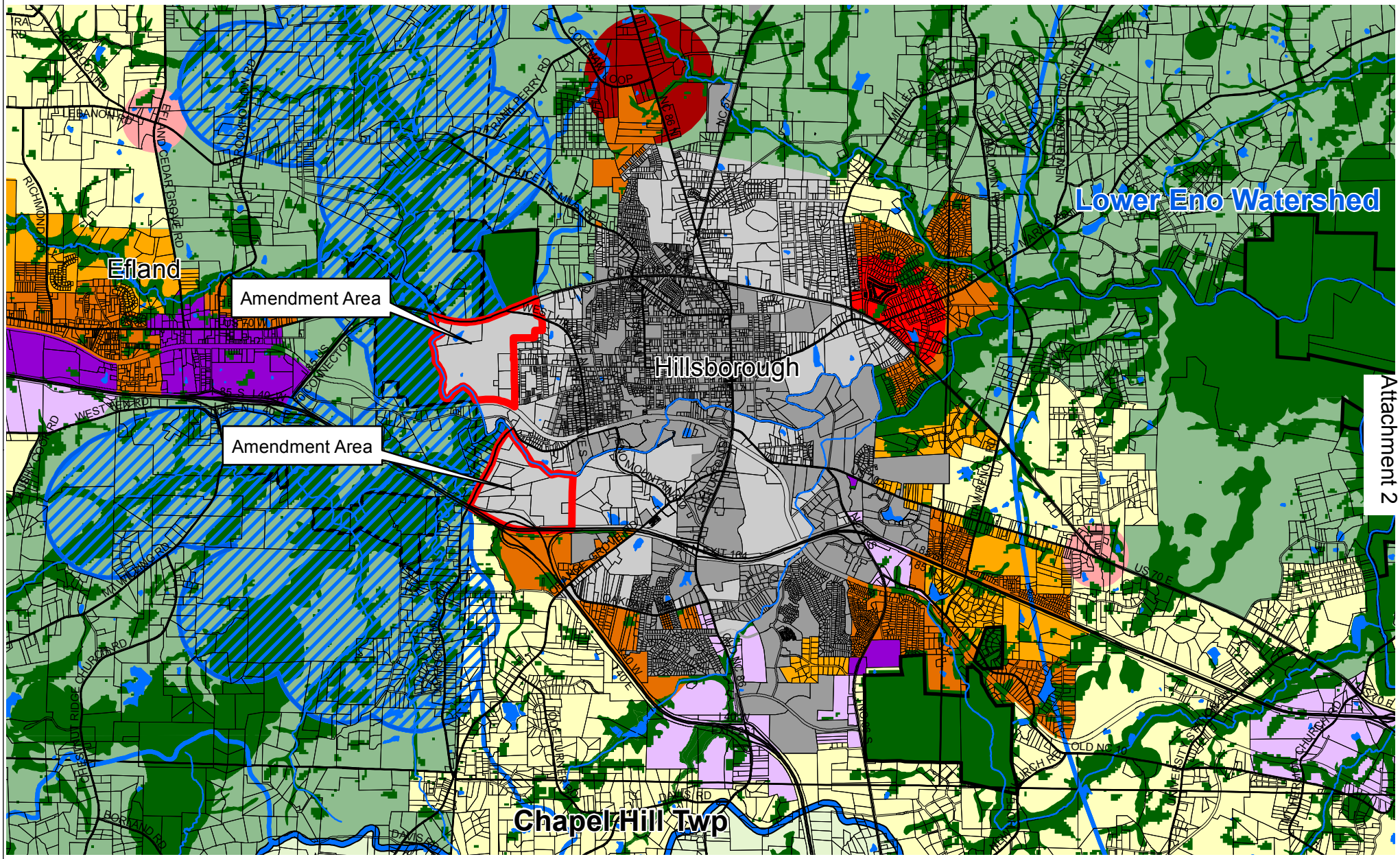
Proposed **Zoning** Map



Return to Agenda

Attachment 2

Future Land Use Map of the Orange County Comprehensive Plan



Adoption Date: Nov 18,2008
Amended through February 2012

Orange County and Planning and Inspections Department.
This copy printed September 30, 2014.
Map is for reference use only.
Contact Planning staff for verification of data.

Return to Agenda

Attachment 3

COMPREHENSIVE PLAN FUTURE LAND USE CLASSIFICATION COMPARISON
RURAL RESIDENTIAL and AGRICULTURAL RESIDENTIAL CLASSIFICATIONS

	RURAL RESIDENTIAL	AGRICULTURAL RESIDENTIAL
FUTURE LAND USE DEFINITION:	Rural Residential - Land in the rural areas of the County which is appropriate for low intensity and low-density residential development and which would not be dependent on urban services.	Agricultural Residential – Land in the rural areas where the prevailing land use activities are related to the land (agriculture, forestry) and which is an appropriate location for the continuation of these uses.
FUTURE LAND USE AND ZONING APPLICATION:	Rural Residential – Identifies rural areas to be developed as low intensity and low density residential. The applied zoning district is R-1 (Low Density Residential).	Agricultural Residential – Agricultural activities and associated residential and commercial uses predominate. The applied zoning districts reflect this primary land use and include: AR (Agriculture Residential) and AS (Agricultural Services).
LOCATIONAL CRITERIA	**RURAL RESIDENTIAL**	**AGRICULTURAL RESIDENTIAL**
Land/Slope	Overall slope of less than 15%	No evaluation
Hydrology	Outside of 100-yr. flood prone areas	No evaluation
Flora and Fauna	Away from sites with endangered species	No evaluation
Soil Conditions	Suitable for on-site sewage disposal systems	Suitable for agriculture production
Public Services/Utilities	Areas that will not require urban-type services	Areas where urban services, especially water and sewer lines, are not needed and should be discouraged
Transportation System	No evaluation	No evaluation
Energy Use	At least 5 min. commute from activity node	No evaluation
Population Density	Generally 1 dwelling unit per acre	Dispersed low-density typical of AG areas
Agriculture and Forestry	No detrimental impact on productive agricultural (AG) and forest land	See existing land uses
Historic and Cultural	No detrimental impact on state/federal historic/cultural sites or County Public Interest sites	No detrimental impact on state/federal historic/cultural sites or County Public Interest sites
Existing Land Use	Located in association with other low-density rural residential uses in general proximity to developed or developing activity nodes	Located in areas where the prevailing activity is agriculture or forestry

A highlighted difference between the two Future Land Use Map classifications and rationale for staff's recommendation to apply the Agricultural Residential classification to the properties that are being relinquished from the Town of Hillsborough ETJ.

09/12/2014

Return to Agenda

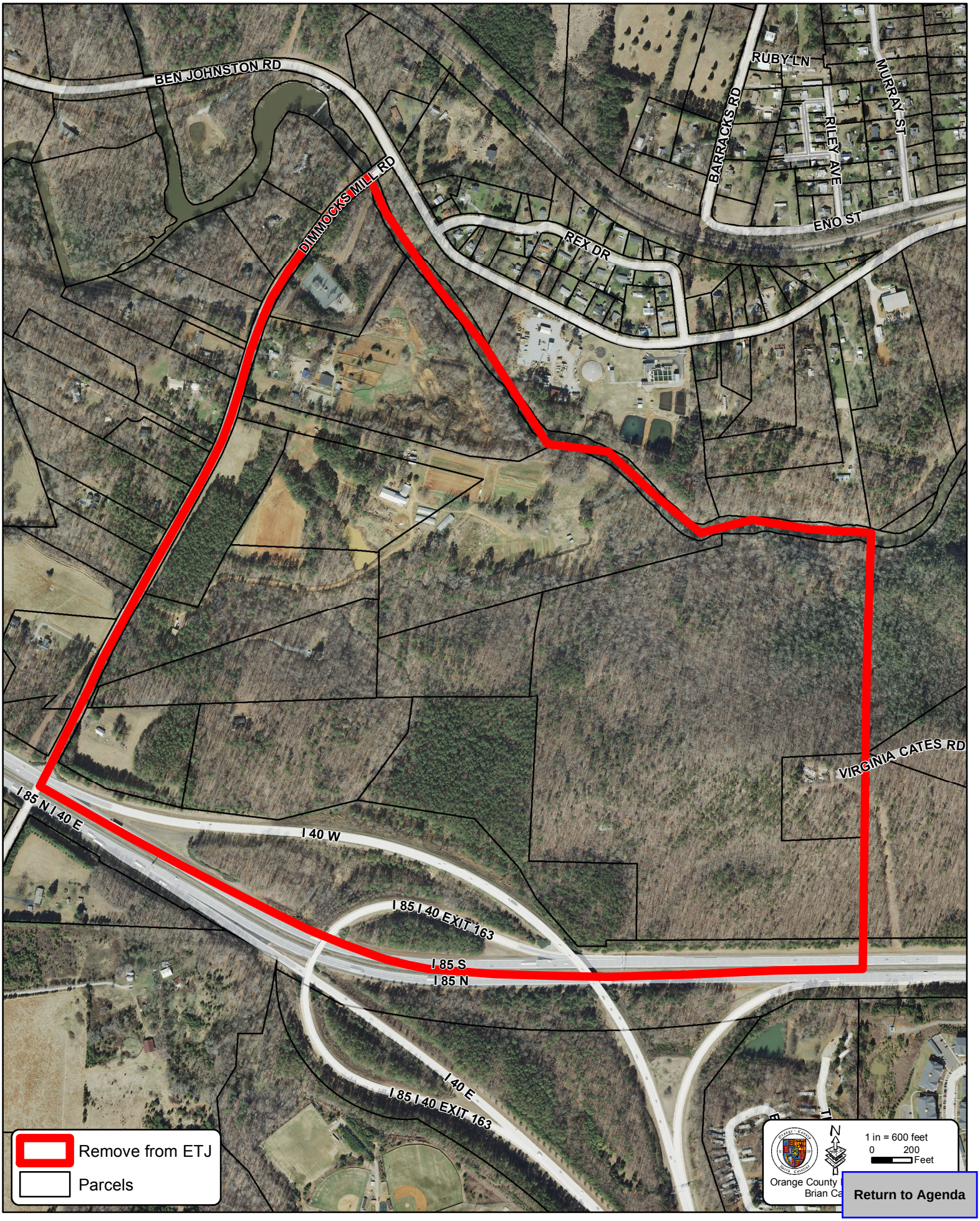
Attachment 4

Areas Removed from Hillsborough ETJ (2013 Imagery)

Return to Agenda

Attachment 4

Areas Removed from Hillsborough ETJ (2013 Imagery)



Return to Agenda

Attachment 4

Summary of Existing Land Uses

PIN	OWNER1_LAST	FARM USE VALUE	Acres Inside Amendment Areas
9854980353	PALMER	Yes	10.82
9854989358	PALMER	Yes	22.57
9864012864	DEPARTMENT OF TRANSPORTATION		0.04
9864028637	KRISHNA TEMPLE OF NC		6.01
9864069297	MAYO		0.97
9864111534	BABA		12.68
9864111926	SPAINE		10.15
9864122219	COON ROCK FARM LLC	Yes	10.42
9864124872	COON ROCK FARM LLC	Yes	10.28
9864135926	PIEDMONT ELECTRIC MEMBERSHIP CORP		6.24
9864138329	MALINOWSKI	Yes	17.30
9864155705	WAGNER		8.37
9864165305	MEDLIN		10.31
9864175152	MEDLIN		10.02
9864210925	MORTON		7.34
9864212218	ASSOCIATION FOR THE PRESERVATION OF THE ENO RIVER VALLEY INC		15.04
9864224688	COON ROCK FARM LLC	Yes	22.60
9864294255	CRAIG		7.28
9864312586	NORTH CAROLINA STATE		65.08
9864319480	ORANGE COUNTY		4.06
9864015589	CATES		5.98
9864074274	DUKE UNIVERSITY SCHOOL OF FORESTRY		172.99
ROW & River			48.72
Total			**485.26**

Existing Land Use	Properties	Acreage	% of Total
Private Non-Farm Use	9	73.09	15%
Private Farm Use	6	93.99	19%
Public/Quasi-Public/Institutional	8	269.46	56%
R.O.W and Eno River	N/A	48.72	10%
Total	22	485.26	100%

Return to Agenda

ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 8, 2014

Action Agenda Item No. 8

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

DEPARTMENT: Planning and Inspections **PUBLIC HEARING: (Y/N)** Yes

ATTACHMENT(S):
1. Comprehensive Plan/Future Land Use Map and UDO Amendment Outline Form (CP and Zoning 2013-02)
2. Zoning Map Hillsborough Surrounds
3. Zoning Classification Comparison
4. Consistency Statements

INFORMATION CONTACT: (919)
Tom Altieri, Planning, 245-2575
Craig Benedict, Planning, 245-2592

PURPOSE: To make a recommendation on a County initiated amendment to the Zoning Atlas affecting approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This amendment assigns County zoning to properties that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ), which is to become effective October 1, 2014. This item is companion to Action Agenda Item No. 7, "2030 Comprehensive Plan Future Land Use Map Amendment."

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

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

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

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

Public Hearing
The proposed zoning atlas amendment was heard at the September 8, 2014 joint public hearing. No members of the public spoke on the proposed amendment. However, the BOCC had primarily two questions:

Return to Agenda

1. Why is staff recommending application of the "Agricultural Residential (AR)" zoning district versus the "Rural Residential (R1)" district to some of the properties affected by the Town's ETJ relinquishment?

Staff response – Beyond the materials that were included in the joint public hearing packet, staff has included a larger view of the zoning atlas that includes the entire Hillsborough periphery (Attachment 2). Staff posits that the AR zoning district is consistent with the zoning applied in the general amendment area. The northern amendment area is more similar to lands to the west and north which are also AR, Public Interest District (PID), and Watershed Critical Area. For the southern amendment area, although there are some properties on the west side of Dimmocks Mill Road, north of I-85/40, that are presently zoned R1, the 2030 Comprehensive Plan Future Land Use Map (FLUM) has those properties classified as Agricultural Residential. As defined in the 2030 Comprehensive Plan, Appendix F, the companion zoning district for the Agricultural Residential FLUM classification is AR exclusively and not R1. In other words, to apply R1 zoning, it should be located within an area classified as Agricultural Residential on the FLUM. Therefore, staff cannot recommend that an existing inconsistency in the application of R1 zoning just outside the proposed amendment area be exacerbated by adding additional R1 within the amendment area on the east side of Dimmocks Mill Road.

Although the Dimensional and Ratio Standards between the R1 and AR zoning districts are nearly identical, there is one difference in the minimum lot width standard and some differences in the uses permitted within the two districts. As part of Unified Development Ordinance amendments implementing Agricultural Support Enterprises, additional Agricultural Uses were added to the Table of Permitted Uses in May of this year (Attachment 3). The permitted Agricultural Uses and minimum lot width standard (150-ft) associated with AR are more compatible with the existing land uses and character of the amendment areas than those associated with R1 (130-ft). Orthophotos of the amendment areas and a table that summarizes existing land uses were provided as part of the materials for Agenda Item 7, "2030 Comprehensive Plan Future Land Use Map Amendment."

2. What would happen if a development application was submitted within the amendment area during the time period between the effective date of the Town's ETJ relinquishment (October 1, 2014) and conclusion of the County's amendment process (November 6, 2014) to apply its FLUM classifications and zoning?

Staff response - The North Carolina General Statutes (Section 160A-360(f1)) allow the Town to continue to enforce its regulations for either 60 days or until the County adopts its FLUM and zoning amendments, whichever comes first. Since the Town's relinquishment becomes effective October 1, the Town's planning regulations and powers of enforcement remain in effect until Dec 1 or when the BOCC concludes the County's process on November 6.

A video of the joint public hearing can be viewed from the following link:
http://orange-nc.granicus.com/MediaPlayer.php?view_id=2&clip_id=750

Procedural Information

In accordance with Section 2.8.8 of the Unified Development Ordinance, any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held

Return to Agenda

open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation

The Planning Director recommends **approval** of the proposed zoning atlas amendment based on the following:

a. Staff has been authorized by the Board of County Commissioners to pursue implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014); and

b. This amendment is consistent with land use goals and objectives of the 2030 Comprehensive Plan; and

c. The request for the amendment has been deemed complete in accordance with the requirements of Sections 2.3 and 2.8 and of the Unified Development Ordinance; and

d. The proposed zoning districts and overlays are consistent and compatible with those of the surrounding area and in general, are of a very low density residential and conservation minded nature.

Consistency Statement

In July of this year, the NC Court of Appeals issued a new opinion which dealt with consistency statements. When the BOCC considers a rezoning or zoning ordinance amendment the BOCC must approve a statement about the amendment's consistency with adopted plans and public interest. The Planning Board is tasked with providing a written recommendation to the BOCC that addresses plan consistency and other matters as deemed appropriate by the Planning Board.

The Planning Board's recommendation on plans consistency should be handled as a separate motion/vote from its recommendation on the rezoning or application of zoning. Attachment 4 provides a draft consistency statement for the Planning Board's use.

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

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

1. Deliberate on the petition, and
2. Make a recommendation to the BOCC on the consistency of the proposed zoning atlas amendment with County plans (Attachment 4), and
3. Consider the Planning Director's recommendation to approve the proposed zoning atlas amendment, and
4. Make a recommendation to the BOCC on the proposed zoning atlas amendment in time for the November 6, 2014 BOCC meeting.

Return to Agenda

Attachment 1

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

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

A. AMENDMENT TYPE

Map Amendments (Also see maps attached at end)

☒ Future Land Use Map:
From: Town of Hillsborough Land Use Classification
To: Agricultural Residential (Portions to include Watershed and Resource Protection, and Public Interest Area overlays)

☒ Zoning Map:
From: Town of Hillsborough Zoning
To: AR Agricultural Residential and PID Public Interest District (Portions to include Watershed Protection, Special Flood Hazard, and Major Transportation Corridor Overlays)

☒ Other: To address Town of Hillsborough Extraterritorial Jurisdiction (ETJ) retraction

Text Amendments

☐ Comprehensive Plan Text:
Section(s):

☐ UDO Text:
☐ UDO General Text Changes
☐ UDO Development Standards
☐ UDO Development Approval Processes
Section(s):

☒ Other:

Return to Agenda

B. RATIONALE

1. Purpose/Mission

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

2. Analysis

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

a. Staff has been authorized by the Board of County Commissioners to pursue implementation of the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014).

b. This amendment is consistent with land use goals and objectives of the 2030 Comprehensive Plan.

c. The request for the amendment has been deemed complete in accordance with the requirements of Sections 2.3 and 2.8 and of the Unified Development Ordinance.

d. The proposed Future Land Use Classification, zoning districts, and overlays are consistent and compatible with those of the surrounding area and in general, are of a very low density residential and conservation minded nature.

Proposed Changes

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

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

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Return to Agenda

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

Background

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

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Return to Agenda

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Return to Agenda

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Return to Agenda

October 8, 2014

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- ☒ General Public: Joint Public Information Meeting January 9, 2014
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Existing Planning staff will accomplish the work required to coordinate with Town of Hillsborough staff on its ETJ adjustment and application of County Future Land Use Classifications and Zoning to areas removed from the Town's ETJ. The required legal ad and first class mail notices were paid with Departmental funds already budgeted for this purpose.

D. AMENDMENT IMPLICATIONS

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

E. SPECIFIC AMENDMENT LANGUAGE

N/A

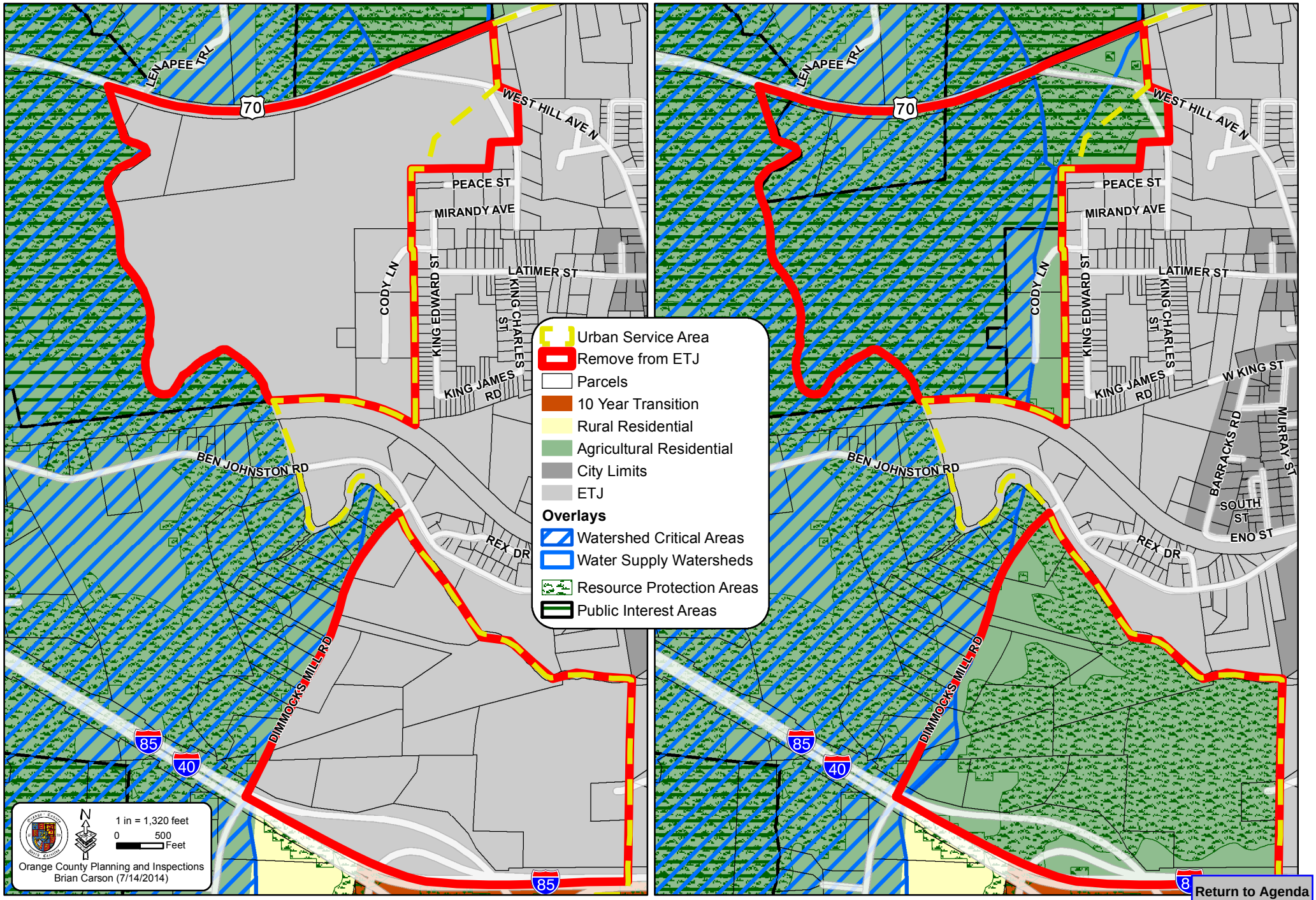
Primary Staff Contact:
Tom Altieri, AICP
Planning Department
(919) 245-2579
taltieri@orangecountync.gov

Return to Agenda

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

Current **Future Land Use** Map

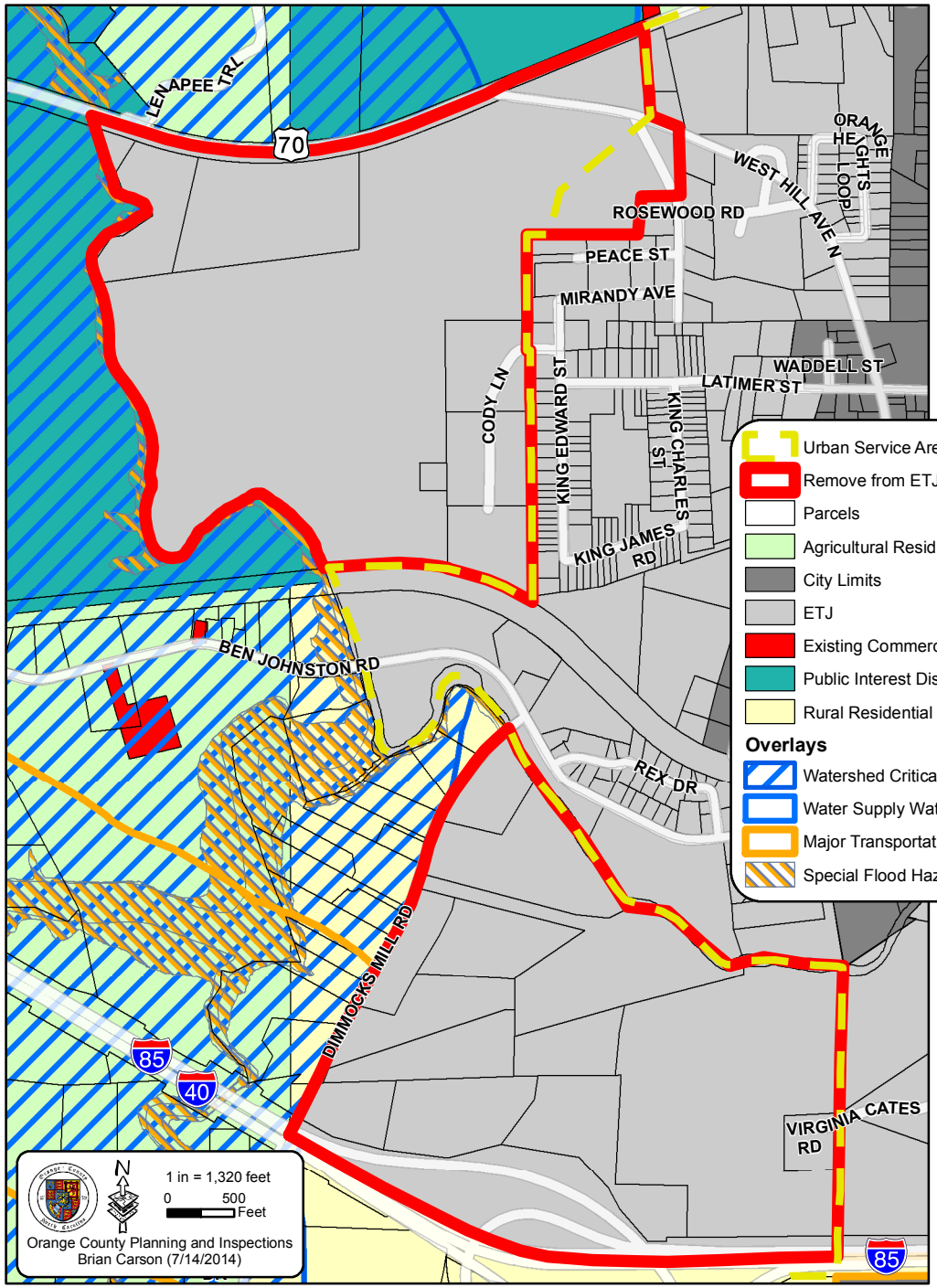
Proposed **Future Land Use** Map



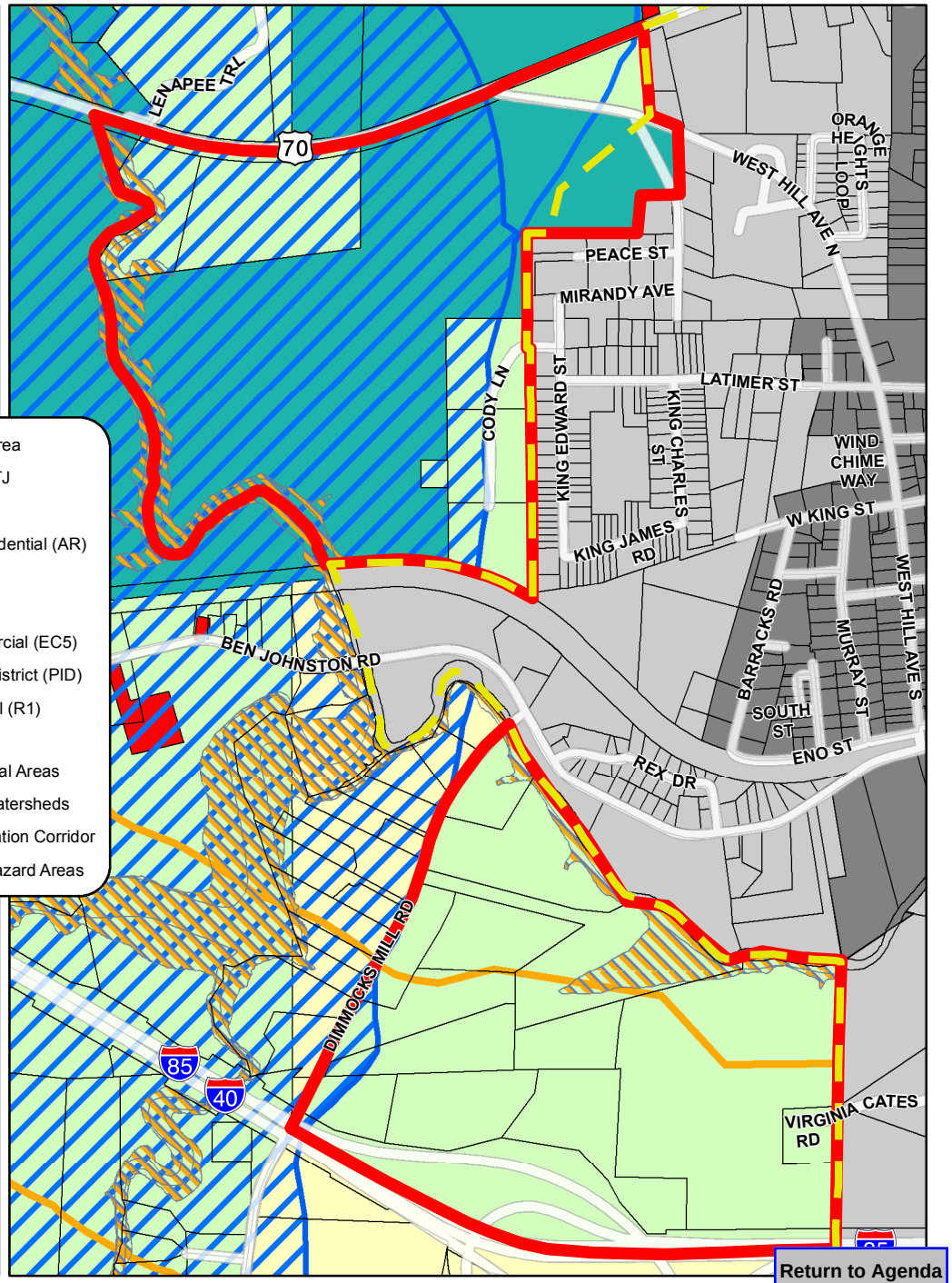
Return to Agenda

Assignment of County Zoning to Areas Removed from Hillsborough ETJ

Current **Zoning** Map

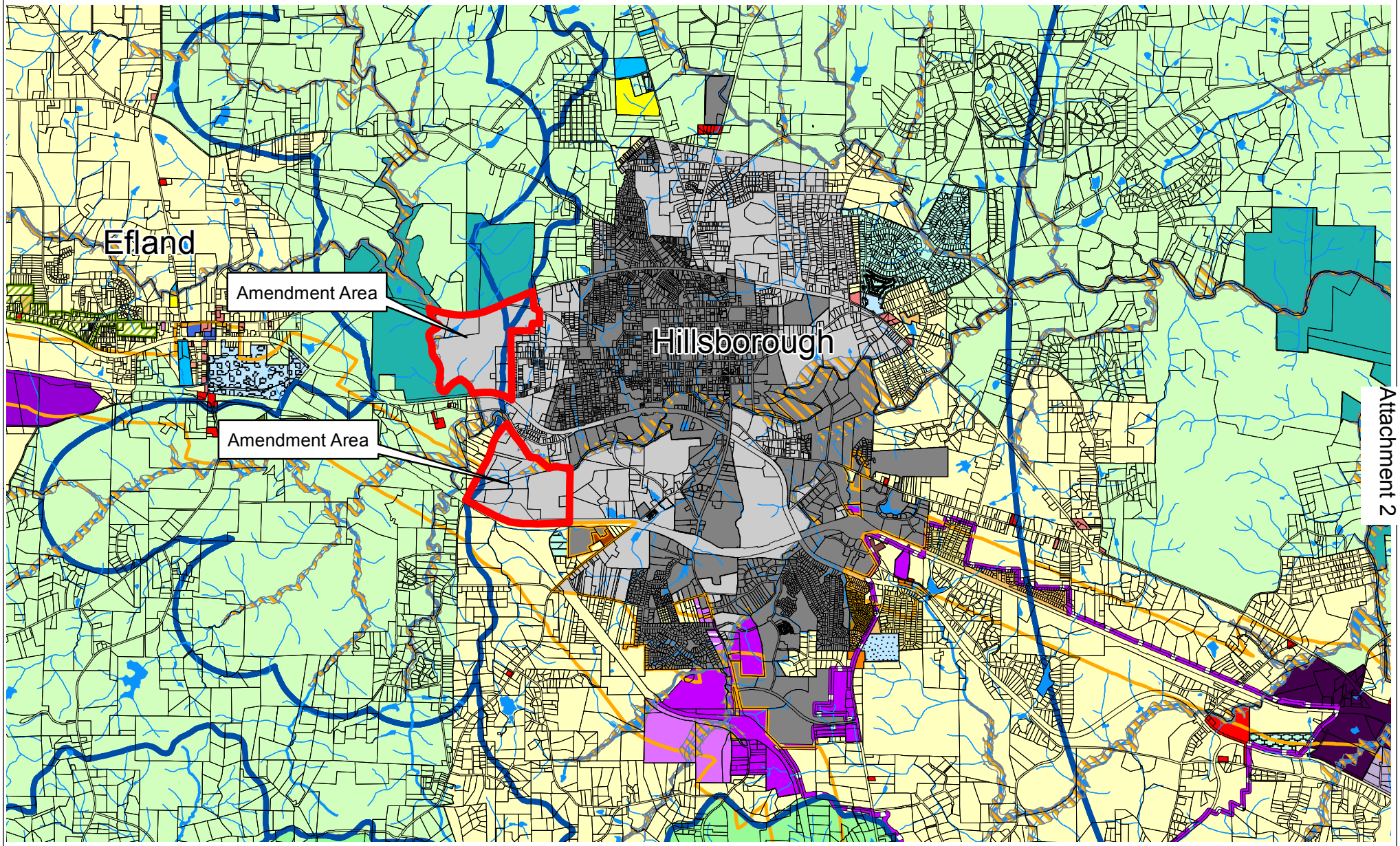


Proposed **Zoning** Map



Return to Agenda

Orange County Zoning



AR
AS
CC3
City Limits
ETJ
EC5
EDB-2
EDE-1
EDE-2
EDH-1
EDH-2
EDH-3
EI
GC4
I1
I2
I3
LC1
NC2
PD-I1
OI
PD-OI
PDCGC4
PDHR2
PDHR4
PDHR5
PDHR8
PID
R1
R2
R3
R4
R5
R8
RB
Streams
Water Bodies
Amendment Area

Overlays
Watersheds
Efland-Cheeks Highway 70 Overlay District
Major Transportation Corridor
Stoney Creek Basin
Special Flood Hazard Areas

N
W E
S

0 2,000 Feet
1 in = 1 miles

Orange County and Planning and Inspections Department.
This copy printed September 30, 2014.
Map is for reference use only.
Contact Planning staff for verification of data.

Attachment 2

Return to Agenda

Attachment 3

ZONING COMPARISON
RURAL RESIDENTIAL (R1) and AGRICULTURAL RESIDENTIAL (AR) DISTRICTS

DISTRICTS	R-1 RURAL RESIDENTIAL DISTRICT	AR AGRICULTURAL RESIDENTIAL DISTRICT
DISTRICT PURPOSES	The purpose of the R-1 District is to provide locations for rural non-farm residential development, at very low intensities, in areas where the short and long-term solutions to domestic water supply and sewage disposal shall be individual wells and ground absorption system.	The purpose of the AR District is to assist in the preservation of land suitable, as a result of location, existing farming operations, soils and topography, for agricultural, silvicultural or horticultural uses and to protect such uses from the adverse effects of incompatible land uses.
DISTRICT APPLICATION	Where designated Rural Residential by the Comprehensive Plan; and where urban services, including water distribution and sewage collection mains, are not likely within 10-20 years.	Where designated Agricultural Residential by the Comprehensive Plan; and where urban services, including water distribution and sewage collection mains, are not likely within 10-20 years.
STANDARDS	**R-1**	**AR**
Minimum lot size	40,000 square feet	40,000 square feet
Minimum lot width	130 feet	150 feet
Minimum front setback from r-o-w	40 feet	40 feet
Minimum corner side setback	40 feet	40 feet
Minimum side setback	20 feet	20 feet
Minimum rear setback	20 feet	20 feet
Maximum height	25 feet, with 2 feet of additional height allowed for one foot increase of the required front and side setbacks	25 feet, with 2 feet of additional height allowed for one foot increase of the required front and side setbacks
Minimum gross land area	R-CU, NR-CU: 80,000 square feet	R-CU, NR-CU: 80,000 square feet
Minimum required open space ratio	R-CU NR, NR CU: .84	R-CU NR, NR CU: .84
Minimum required recreation space ratio	R, R-CU: .031	R, R-CU: .031
Minimum required livability space ratio	R-CU: .75	R-CU: .75
Minimum required pedestrian/landscape ratio	NR, NR-CU: .21	NR, NR-CU: .21
Density	The density permitted based on the Watershed Protection Overlay District	The density permitted based on the Watershed Protection Overlay District
Differences in permitted uses	*See attached permitted use table	*See attached permitted use table

Indicates difference in standards or uses

09/12/2014

Return to Agenda

SECTION 5.2: TABLE OF PERMITTED USES

5.2.1 Table of Permitted Uses – General Use Zoning Districts

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	I 1	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)																					
AGRICULTURAL USES																					
Agricultural Processing Facility ~																*		*	*	*	
Agricultural Processing Facility, Community ^		*								*	*					*		*			
Agricultural Services Uses													*			*					
Cold Storage Facility																A		*	*	*	
Community Farmers' Market ^		*								*	*	*	*			*					
Composting Operation, no grinding																A					
Composting Operation, with grinding ~																A					
Cooperative Farm Stand ^		*								*	*					*					
Equestrian Center		A																			
Farm Equipment Rental, Sales and Service ~													*	*		*			*	*	
Farm Supply Store										*	*	*	*			*					
Feed Mill ~																*			*	*	
Greenhouses with On Premises Sales ^		*									*	*	*	*		*					
Meat Processing Facility, Community ^		*								*	*					*		*			
Meat Processing Facility, Regional ~																A					
Non-Farm Use of Farm Equipment ^		*														*					
Stables, Commercial ~	B	B	B									B	B			B					
Stockyards / Livestock Markets ~																*					
CHILD CARE & EDUCATIONAL FACILITIES																					
Center in a Residence for 3 to 12 Children	*	*	*	*	*	*	*	*	*	*	*	*		*	*						

Return to Agenda

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS

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USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I 1	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)																					
Child Care Facilities	B	B	B	B	B	B	B	B	B	*	*	*	*	*	*						
Libraries										*	*	*	*		*						
Non-Profit Educational Cooperative		A																			
Schools: Dance, Art & Music										*	*	*	*	*	*						
Schools: Elementary, Middle & Secondary	A	A	A	A	A	A	A	A	A						A						
Schools: Vocational												*	*		*				*	*	
Universities, Colleges & Institutes	*	*	*									*	*		*						
COMMERCIAL USES																					
Banks & Financial Institutions										*	*	*	*	*							
Beauty & Barber Shops										*	*	*	*	*							
Country Store										*	*					*					
Drive In Theaters ~													*								
Funeral Homes ~												*	*								
Garden Center										*	*	*	*			*					
Hotels & Motels ~												*	*								
Junkyards ~													A					A	A		
Kennels, Class II ~ ^	B	B	B									B	B			B					
Laundry & Dry Cleaning Services										*	*	*	*	*							
Massage, Business of												*	*								
Microbrewery with Minor Events ^		B																B	B	B	
Nightclubs, Bars, Pubs										*		*	*								
Offices & Personal Services, Class 1										*	*	*	*	*	*			*	*	*	
Offices & Personal Services, Class 2											*	*	*		*			*	*	*	
Offices & Personal Services, Class 3												*	*		*					*	

Return to Agenda

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS

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USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I 1	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)																					
Repair Service Electronic & Appliance										*	*	*	*								
Restaurants: Carry Out											*	*	*	*							
Restaurants: Drive In												*	*	*							
Restaurants: General											*	*	*	*							
Retail, Class 1										*	*	*	*	*							
Retail, Class 2											*	*	*	*							
Retail, Class 3												*	*								
Rural Guest Establishment: Bed & Breakfast ^	*	*	*																		
Rural Guest Establishment: Bed & Breakfast Inn ^		B	B																		
Rural Guest Establishment: Country Inn ^		A	A																		
Storage of Goods, Outdoor ~														*				*	*	*	
Storage or Warehousing: Inside Building													*	*	*			*	*	*	
Studio (Art)										*	*	*	*		*			*	*	*	
Taxidermy ^		B								*	*	*	*					*			
Tourist Home						*	*	*	*						*						
Wholesale Trade ~												*	*	*	*			*	*	*	
Winery with Minor Events ^		B																B	B	B	
EXTRACTIVE USES																					
Extraction of Earth Products ~		A														A		A	A	A	
GOVERNMENTAL USES																					
Governmental Facilities & Office Buildings	*	*	*	*	*	*	*	*	*	*	*	*	*		*			*	*	*	*
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments	*	*	*	*	*	*	*	*	*		*	*	*	*	*	*		*	*	*	

Return to Agenda

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS

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USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I 1	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) ~											*	*	*		*						
MANUFACTURING, ASSEMBLY & PROCESSING																					
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets												*			*			*	*	*	
Industrial, Heavy ~																				*	
Industrial, Light ~																	*	*	*	*	
Industrial, Medium ~																			*	*	
Microbrewery, production only ^		B																*	*	*	
Printing & Lithography												*	*	*				*	*	*	
Sawmills ~																*					
Winery, production only ^		B																*	*	*	
MEDICAL USES																					
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												*	*	*	*	*			*	*	
RECREATIONAL USES																					
Botanical Gardens & Arboretums	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*		*	*	*	*
Camp/Retreat Center	B	B	B																		
Golf Driving and Practice Ranges		B										*	*					*			
Parks, Public & Non-Profit	*	*	*	*	*	*	*	*	*	*	*	*	*		*			*	*	*	*

Return to Agenda

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~ 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)	B	B	B	B	B	B	B	B	B	B	B	B	B		B			B	B	B	
Recreational Facilities (Profit)												*	*					*			
Golf Course	A	A	A	A	A	A	A	A	A	A	A	A	A		A			A	A	A	
RESIDENTIAL USES																					
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						*	*	*	*						*						
TELECOMMUNICATIONS																					
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
Telecommunication Towers (200 feet and higher)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
TEMPORARY USES																					
Buildings, Portable	B	B	B	B	B	B	B	B	B		B	B	B	B	B						
Temporary Mobile Home (Custodial Care)	B	B	B	B	B	B	B	B	B						B						

Return to Agenda

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~ 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)																					
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	*	*	*	*	*	*															
AUTOMOTIVE / TRANSPORTATION																					
Bus Passenger Shelter	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	
Bus Terminals & Garages ~													*					*	*	*	
Motor Freight Terminals ~																		*	*	*	
Motor Vehicle Maintenance & Repair (Body Shop) ~												*	*	*							
Motor Vehicle Repair Garage ~												*	*								
Motor Vehicle Sales / Rental (New & Used)											Δ[1]		*	*			*	*	*	*	
Motor Vehicle Services Stations										*	*	*	*	*							
Parking As Principal Use, Surface or Structure											*	*	*								
Petroleum Products: Storage & Distribution ~																		*	*	*	
Postal & Parcel Delivery Services												*	*		*						
UTILITIES																					
Elevated Water Storage Tanks	B	B	B	B	B	B	B	B	B	B		B	B	B		B		B	B	B	
Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A
Electric, Gas, and Liquid Fuel Transmission Lines	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B		B	B	B	
Water & Sanitary Sewer Pumping	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	*
Solar Array – Large Facility	B	B	B	B	B	B	B	B	B	B	B	B	B		B	B		B	B	B	B
Solar Array – Public Utility	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A		A	A	A	A
WASTE MANAGEMENT																					

[1] See Section 5.15.1 for special standards

Return to Agenda

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**

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	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I 1	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)																					
Landfills (2 Acres or More) ~	A	A	A													A		A	A	A	
Landfills (Less Than 2 Acres) ~	B	B	B													B		B	B	B	
Waste Management Facility; Hazardous & Toxic ~													A						A	A	
MISCELLANEOUS																					
Accessory Uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Airports, General Aviation, Heliports, S.T.O.L ~	A	A	A															A	A	A	
Assembly Facility Greater Than 300												*	*								
Assembly Facility Less Than 300										*		*									
Cemetery	B	*	B	B	B	B	B	B	B												
Church	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	*	*							*	*	*	*		*						
Community Center	B	B	B	B	B	B	B	B	B	*	*	*			*						
Crematoria ~																		*	*	*	
Historic Sites Non-Residential/Mixed Use	A	A	A																		
Kennels, Class I	*	*	*									*	*			*					
Research Facility ~											*	*	*		*			*	*	*	
Research Lands & Installations, Non-profit																					*
Rural Heritage Museum		B								B	B					B					
Rural Special Events ^		*														*					
Special Events (Less than 150)												*	*						*		

Return to Agenda

Attachment 4

STATEMENT OF CONSISTENCY
OF PROPOSED ZONING ATLAS AMENDMENT WITH THE 2030 COMPREHENSIVE PLAN AND/OR OTHER ADOPTED COUNTY PLANS

Orange County has initiated amendments to the Zoning Atlas affecting approximately 500-acres located generally near the Eno River between US 70 W and I-85/I-40 in Cheeks and Hillsborough Townships. This amendment assigns County zoning to properties that are to be removed from the Town of Hillsborough Extraterritorial Jurisdiction (ETJ), which is to become effective October 1, 2014.

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

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

<u>The Planning Board finds</u>:

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

<u>The amendment is consistent with applicable plans because it</u>:

- Supports the following 2030 Comprehensive Plan goals and objectives:

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

  <u>Objective LU-1.1:</u>
  Coordinate the location of higher intensity / high density residential and non-residential development with existing or planned locations of public transportation, commercial and community services, and adequate supporting infrastructure (i.e., water and sewer, high-speed internet access, streets, and sidewalks), while avoiding areas with protected natural and cultural resources. This could be achieved by increasing allowable densities and creating new mixed-use zoning districts where adequate public services are available.

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

Return to Agenda

Objective LU-6.1:
Undertake a comprehensive effort to inform and involve the citizens of Orange County in the land use planning process.

Objective LU-6.2:
Maintain a cooperative joint planning process among the County municipalities and those organizations responsible for the provision of water and sewer services to guide the extension of service in accordance with the Comprehensive Plan, the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Land Use Plan, and the policies of the municipalities.

- Further implements the Hillsborough-Orange Interlocal Land Management Agreement (2009 and as amended 2014), consistent with the Town of Hillsborough/Orange County Central Orange Coordinated Area Land Use Plan and established Town Urban Service Area, and
- Supports the Water and Sewer Management, Planning and Boundary Agreement and Map.

The amendment is reasonable and in the public interest because:

- Fifty-six percent (56%) of the amendment area consists of Public/Quasi-Public/Institutional (i.e. Duke Forest, Assoc. for the Preservation of the Eno River Valley, State of NC, NCDOT, Krishna Temple, etc.) existing land uses and 19% of the amendment area is under the Present Use Value program, and
- The existing land use activities in the area support the rezoning of properties to the Agricultural Residential (AR) and Public Interest District (PID) general use zoning districts as well as the extension of Watershed Protection, Special Flood Hazard, and Major Transportation Corridor Overlays, and
- The proposed zoning districts include permitted uses such as single-family residential, church, day care, bed and breakfast, government use, cooperative farm stand, greenhouse, parks, research lands, which provide an appropriate balance between development rights and environmental protection, and
- The proposed zoning districts and overlays are found in the vicinity, and
- It is consistent with the character of the area, existing development trends, and will minimize the potential for incompatible land uses in the future, and
- It promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Planning Board hereby recommends that the Orange County Board of County Commissioners consider adoption of the proposed zoning atlas amendment.

_____ _____

Pete Hallenbeck, Chair Date

Return to Agenda

ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 8, 2014

Action Agenda Item No. 9

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

DEPARTMENT: Planning and Inspections **PUBLIC HEARING: (Y/N)** No

ATTACHMENTS:

1. Comprehensive Plan and Unified Development Ordinance Outline Form (UDO & Zoning 2014-12)
2. Statement of Consistency
3. Proposed UDO Text Amendments

INFORMATION CONTACT:

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

PURPOSE: To make a recommendation to the BOCC on Planning Director initiated Unified Development Ordinance (UDO) text amendments requiring a neighborhood information meeting (NIM) for all Special Use Permit (SUP) applications.

BACKGROUND: This item was presented at the September 8, 2014 Quarterly Public Hearing where staff indicated the amendment was in response to concerns that a NIM was not held in advance of the review of an SUP application at a public hearing.

The proposed amendment would require a NIM be held 45 days prior to a public hearing where a SUP was scheduled for review. The applicant would be required to mail notices 14 days, and post a sign on the property 10 days, prior to the meeting.

For additional background, including a synopsis of comments from the quarterly public hearing, please refer to Attachment 1. Agenda materials from the September 8, 2014 Quarterly Public Hearing can be viewed at: http://orangecountync.gov/occlerks/140908.pdf.

Attachment 3 contains the proposed amendments with additions shown in red text and proposed deletions are shown in red ~~strikethrough~~ text as well as footnotes documenting the rationale for the proposed modification. Modifications incorporating comments from the public hearing are denoted in green text.

Procedural Information: In accordance with Section 2.8.8 of the Unified Development Ordinance, any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Return to Agenda

Planning Director's Recommendation: The Planning Director recommends **approval** of the Statement of Consistency, indicating the amendment is reasonable and in the public interest, contained in Attachment 2 and proposed text amendments contained in Attachment 3.

For additional information please refer to Section B.1 and 2 in Attachment 1.

FINANCIAL IMPACT: See Section C.3 in Attachment 1.

RECOMMENDATION: The Planning Director recommends the Board:

1. Deliberate on the petition,
2. Consider the Planning Director's recommendation, and
3. Make a recommendation to the BOCC on the Statement of Consistency and proposed UDO text amendments in time for the **November 18, 2014** BOCC meeting.

Return to Agenda

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

UDO / Zoning-2014-12

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

A. AMENDMENT TYPE

Map Amendments

☐ Future Land Use Map:
From:
To:

☐ Zoning Map:
From:
To:

☐ Other:

Text Amendments

☐ Comprehensive Plan Text:
Section(s):

☒ UDO Text:

☐ UDO General Text Changes
☐ UDO Development Standards
☒ UDO Development Approval Processes

Section(s):
1. Section 2.7 *Special Use Permits*,
2. Section 2.9.1 (D) *Neighborhood Information Meeting – Conditional Use Districts*, and
3. Section 5.10 *Standards for Telecommunication Uses*.

☐ 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 text amendment(s) to require a Neighborhood Information Meeting (NIM) be held for all Special Use Permit (SUP) applications prior to the public hearing. The proposal would also modify the timeline for the holding of a NIM for Conditional Use

applications.

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

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

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

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

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

2. Analysis

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

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

Having a NIM 45 days prior to the public hearing, as discussed and recommended at the September 8, 2014 Quarterly Public Hearing, the application submittal deadline and review process will be extended by approximately 50 to 60 days to accommodate the meeting and review schedule.

Return to Agenda

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

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

4. **New Statutes and Rules**

N/A

C. PROCESS

1. **TIMEFRAME/MILESTONES/DEADLINES**

a. BOCC Authorization to Proceed

June 17, 2014

b. Quarterly Public Hearing

September 8, 2014

c. BOCC Updates/Checkpoints

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

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

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

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

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

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

- How will this amendment impact applications for telecommunication towers?

  STAFF COMMENT: Currently property owners within 1,000 feet of a parcel of property where a telecommunication tower is proposed are notified of a balloon test. This test, which occurs anywhere from 6 weeks (Class B application – 75 to 199 ft. tall tower) to 11 weeks (Class A application – 200 ft. and over) prior to a public hearing. The purpose of this test is to show interested parties how the tower will 'look' on the property by flying a dirigible at the maximum proposed height of the tower. Staff, who already attends this test, intends to utilize this test as serving as the NIM and will be available to provide information on the process.

Return to Agenda

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

- Who runs the meeting?

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

September 8, 2014 Quarterly Public Hearing. This item was reviewed at the hearing where the following questions/comments were made:

- BOCC and Planning Board members indicated they believed holding a NIM 30 days prior to the public hearing, where a special use permit was set for review, would not provide sufficient notice to adjacent property owners of the hearing or review process.

  There was consensus that holding the NIM 45 days in advance of the public hearing would be more appropriate.

  STAFF COMMENT: The change has been incorporated. This will increase the time currently associated with the submittal and review of special use permit application by approximately 50 to 60 days.

- A BOCC member suggested the NIM be held in the evening rather than during the day.

  STAFF COMMENT: The UDO does not specify the time (i.e. day or evening) a NIM is held. Departmental policy has been to hold the meeting during normal business hours.

  Staff reminded the Board that complaints have been received over the holding of similar meetings during normal business hours, as people who want to attend them work, as well as at night, as people do not drive at night or the meeting conflicts with family activities or with an individuals work schedule.

  No matter when the hearing is held there is the potential for criticism.

- A BOCC member suggested that staff provide periodic updates on the Planning Department website on applications being submitted and where such applications are in the review process.

  STAFF COMMENT: Information shall be provided as suggested.

- A BOCC member asked staff to clarify current NIM requirements.

  STAFF COMMENT: A meeting is held:

  1. 14 days prior to the Planning Board review of a Major Subdivision Concept Plan application,
  2. 14 days Prior to the submittal of any Zoning

Return to Agenda

Compliance Permit application proposing a governmental use,

3. 14 days prior to a public hearing where a Conditional Use District or Conditional Zoning District is scheduled for review.

- A BOCC member suggested a NIM for a Conditional Zoning District application be held consistent with other similar processes being discussed.

  STAFF COMMENT: Conditional Zoning District applications are a reviewed as a legislative item. There is no expert testimony or evidence required as part of its review. There is no need for an applicant or a concerned property owner to hire 'experts' to testify about the projects compliance or non-compliance with County regulations.

  The current proposal is intended to address a concern that local property owners be provided an opportunity to learn about the special use permit process (i.e. what constitutes competent, material, evidence) and have sufficient time to prepare.

  Given the review and action on Conditional Zoning District applications staff does not believe there is a need to change current regulations.

October 8, 2014 – Planning Board Meeting.

November 18, 2014 - Receive Planning Board recommendation.

d. Other

N/A

2. PUBLIC INVOLVEMENT PROGRAM

a. Planning Board Review:

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

October 8, 2014 – Recommendation

b. Advisory Boards:

N/A

c. Local Government Review:

Review of the proposal by the Town(s) of Chapel Hill and Carrboro consistent with the Joint Planning Agreement (JPA) as the amendment will impact projects in the Rural Buffer. Items were sent on July 31, 2014.

At this time we have received no written comments. Town of Carrboro

Return to Agenda

staff has verbally indicated they have no concerns over the proposal.

d. Notice Requirements

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

e. Outreach:

- ☐ General Public:
- ☐ Small Area Plan Workgroup:
- ☒ Other: Staff asked County's current telecommunication consultant to review and comment on the amendments as they relate to our telecom program. Our consultant had no concerns.

3. FISCAL IMPACT

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

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

There will also be an increase in staff workload with respect to preparing, sending out notices, and staffing the NIM potentially impacting Departmental budgetary outlays.

D. AMENDMENT IMPLICATIONS

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

As previously indicated the application submittal deadline will have to be increased to accommodate a NIM being held 45 days prior to a public hearing.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 3 the proposed language

Primary Staff Contact:
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Return to Agenda

Attachment 2

STATEMENT OF CONSISTENCY
OF A PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE ADOPTED ORANGE COUNTY 2030 COMPREHENSIVE PLAN

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to require a neighborhood information meeting prior to the review of Special Use Permit applications at a public hearing.

The Planning Board finds:

a. The requirements of Section 2.8 of the UDO have been deemed complete; and,

b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the rezoning **is consistent** with the adopted 2030 Comprehensive Plan, as amended, or part thereof including but not limited to, the following:

   Chapter 5 – Land Use Element – Section 5.6 *Goals – Land Use Goal 6*:

   A land use planning process that is transparent, fair, open, efficient, and responsive.

c. The amendment is consistent with applicable plans because it:

   1. Increases the opportunity for the general public to become more aware of, and directly involved in, the County's planning program.

d. The amendment is reasonable and in the public interest because it:

   1. Provides an opportunity for interested residents and property owners to understand a project, obtain more understanding of the review process, and provide comments in advance of the public hearing.
   2. Promotes an open, transparent, and responsive permit review process.

The Planning Board of Orange County hereby recommends that the Board of County Commissioners consider adoption of the proposed UDO text amendment.

_____ _____

Pete Hallenbeck, Chair Date

Return to Agenda

Attachment 3

ORDINANCE APPROVING
PROPOSED ZONING TEXT AMENDMENTS
REQUIRING NEIGHBORHOOD INFORMATION MEETINGS
FOR ALL SPECIAL USE PERMIT APPLICATIONS

WHEREAS, Orange County has initiated an amendment to the Unified Development Ordinance (UDO) requiring a neighborhood information meeting prior to the review of Special Use Permit applications at a public hearing; and,

WHEREAS, the amendment is intended to address a concern that local residents and property owners are not being provided adequate time to understand, and prepare for, the review of Special Use Permit applications; and

WHEREAS, the County has determined existing language within the UDO needs to be modified to ensure a more transparent and open project review process; and

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

WHEREAS, pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the zoning text amendment is consistent with the adopted 2030 Comprehensive Plan, as amended, as detailed within a previously adopted *Statement of Consistency*, and

WHEREAS, the Board has found the proposed zoning text amendment is reasonable and in the public interest as detailed within a previously adopted *Statement of Consistency*.

BE IT ORDAINED by the Board of Commissioners of Orange County that the Orange County Unified Development Ordinance is hereby amended as depicted within the attached pages.

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

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2014.

I, Donna S. Baker, Clerk to the Board of Commissioners for Orange County, DO

HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said

Return to Agenda

Board at a meeting held on _____, 2014 as relates in any way to the adoption of the foregoing and that said proceedings are recorded in the minutes of the said Board.

WITNESS my hand and the seal of said County, this _____ day of _____, 2014.

SEAL

_____
Clerk to the Board of Commissioners

Return to Agenda

UDO AMENDMENT PACKET NOTES:

The following packet details the proposed text amendments requiring a neighborhood information meeting be held prior to the review of all Special Use Permit applications before a public hearing. The amendment package also proposes the re-numbering and reformatting of Section 2.7 to accommodate the new standards.

As the number of affected pages/sections of the existing UDO are being modified with this proposal, staff has divided the proposed amendments into the following color coded classifications:

- Red Underlined Text: Denotes new, proposed text, that staff is suggesting be added to the UDO.
- ~~Red Strikethrough Text~~: Denotes existing text proposed for deletion.
- Green Underlined Text: Denotes modifications made following the September 8, 2014 Quarterly Public Hearing.

Staff has included footnotes within the amendment package to provide additional information/rationale concerning the proposed amendments to aid in your review.

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. 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 or footnotes from previous sections 'spill over' onto the included page. Text with a large "X" is not proposed for modification.

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.

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

Return to Agenda

(4) For Class A Special Uses 26 copies of the site plan, and for Class B Special Uses 10 copies of the site plan, prepared by a registered North Carolina land surveyor, landscape architect, architect, or engineer, which shall contain the information listed in Section 2.5.

(5) If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.

(6) A list of all parcels located within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.

(7) Elevations of all structures proposed to be used in the development.

(8) For Class A Special Uses 26 copies and for Class B Special Uses 10 copies of the Environmental Assessment and/or Environmental Impact Statement, if required by Section 6.16.

(9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.

(10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.

(11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum).

2.7.4 Staff Review

(A) The Planning Director shall cause an analysis to be made of the application by qualified representatives of the County and other agencies or officials as appropriate.

(B) The Planning Director shall submit the analysis to the Board of County Commissioners and the Planning Board, in the case of Class A Special Uses, or the Board of Adjustment, in the case of Class B Special Uses.

(C) The appropriate Board reviewing the application shall receive and enter the analysis into evidence during the public hearing. The analysis shall be subject to examination by all interested parties and the Planning Director shall be subject to cross-examination regarding the analysis.

(D) The Planning Director shall not make a recommendation on the general findings detailed within Section 5.3 of this Ordinance

2.7.5 Neighborhood Information Meeting

(A) Before a Public Hearing may be held a Special Use, the applicant is required to schedule, ~~with the assistance of the Planning Department~~ [1] 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. [2]

(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

[1] County Attorney recommends the ~~green strike through~~ text be deleted.

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

Return to Agenda

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 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**[3] days prior to the date of the Public Hearing.[4]

(F) Neighborhood information meetings for telecommunication facilities shall be held in accordance with the provisions of Section 5.10.8 (B) (2).

~~2.7.5~~2.7.6 Notice Requirements for Class A Special Use Permits

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

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

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.

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.

Written notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.

~~2.7.6~~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.

~~2.7.7~~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:

---

[3] Staff has changed the timeframe for holding the neighborhood meeting consistent with BOCC and Planning Board direction from the September 8, 2014 public hearing denoting it in **green bold text**.

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

Return to Agenda

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

SECTION 2.9: CONDITIONAL DISTRICTS

2.9.1 Conditional Use District (CUD)

(A) Generally

(1) Any use permitted under the CUD process shall conform to all applicable development regulations for the corresponding general use zoning district as well as any specific development standards outlined within this Ordinance.

(2) The Board of County Commissioners, in reviewing a CUD application, may impose such reasonable conditions upon approval of a CUD request as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and ensure equitable treatment.

(3) Only those conditions mutually agreed to by the applicant and the Board of County Commissioners may be imposed on a CUD application.

(4) Within the Economic Development Districts (EDDs), there are specific uses that require approval of a CUD. These uses are noted on the Table of Permitted Uses – Economic Development Districts (Section 5.2).

(B) Applications

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

(1) Zoning Atlas amendment (Section 2.8),

(2) Class A Special Use Permit (Section 2.7), and

(3) The provisions of this Section.

(C) Submittal Requirements

(1) In addition to the CUD application form, an applicant shall also submit the following information:

(a) A site plan prepared in accordance with the provisions of Section 2.5 including the following:

(i) A detailed description of the proposed use of property including an outline of the proposed operational characteristics of the proposed development,

(ii) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance,

(iii) The appropriate environmental document prepared in accordance with Section 6.16; and

(iv) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.

(b) A summary of utility services, including processing of wastewater.

(c) A schedule of construction of all elements of the proposal; and

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

Return to Agenda

(2) 26 copies of the application package required in (1) above shall be submitted by the applicant.

(3) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CUD.

(D) Neighborhood Information Meeting

(1) Before a Public Hearing may be held on an accepted application for a CUD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.

(2) The applicant shall obtain property owner mailing address information from the Orange County ~~Land Records department~~Planning Department [5] and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a CUD has been requested.

(3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed ~~Neighborhood Information Meeting~~ meeting[6].

(4) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.[7]

~~(4)~~(5) The Neighborhood Information Meeting shall be held a minimum of ~~14~~ **45** [8] days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

(E) Review and Evaluation of Application

(1) All CUD applications shall be reviewed and acted upon in accordance with the review procedures for Class A Special Use Permits (Section 2.7).

(2) The following shall be considered when evaluating an application for a CUD:

(a) The policies and objectives of the Orange County Comprehensive Plan, particularly in relation to the use, proposed site, and surrounding area;

(b) The policies and objectives of any adopted Small Area Plan(s) relating to the area; and

(c) The potential impacts to the surrounding area including, but not limited, to: traffic, storm water drainage, compatibility of land use activities, and land values.

(3) The Board of County Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of the proposed use. Such conditions may address the following:

(a) The characteristics of the proposed use and its relationship to surrounding property and existing land uses,

(b) The proposed support facilities, such as parking, screening and buffer areas,

(c) The timing of the proposed development,

[5] Planning staff already provides this service during the pre-application conference related to a Special Use or Conditional Use project. The proposed amendment is designed to ensure local regulations mirrors current practice.
[6] County attorney recommended change denoted in green underlined text.
[7] Staff inadvertently left out the requirement for posting of a sign advertising the neighborhood meeting. This corrects the error.
[8] We are changing the timeframe to 45 days.

Return to Agenda

(1) Changes to approved plans and conditions of development shall be treated as changes to the zoning atlas and shall be processed as an amendment to such as contained in Section 2.8.

(2) The Planning Director may approve minor changes without going through the amendment process. The Planning Director, at his/her discretion, may elect not to allow any proposal as a minor change and will forward the detailed application for changes to the Planning Board and Board of County Commissioners for consideration in accordance with the procedures outlined herein.

(3) A minor change is one that will not:

(a) Alter the basic relationship of the proposed development to adjacent property,

(b) Alter the approved land uses,

(c) Increase the density or intensity of development, and/or

(d) Decrease the off-street parking ratio or reduce the buffer yards provided at the boundary of the site.

2.9.2 Conditional Zoning District (CZD)

(A) Generally

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

(B) Applications

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

(1) Zoning Atlas amendment (Section 2.8),

(2) Site plans (Section 2.5) for CZDs that require a site plan, and

(3) The provisions of this Section.

(C) Submittal Requirements

(1) In addition to the CZD application form, an applicant shall also submit the following information:

(a) A site plan prepared in accordance with the provisions of Section 2.5 of this Ordinance, except for MPD-CZ applications (see (C)(2) below).

(b) A detailed description of the proposed use of property including an outline of the proposed development.

(c) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance.

(d) The appropriate Environmental Document prepared in accordance with Section 6.16.

(e) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.

(f) A summary of utility services, including processing of wastewater.

(g) A schedule of construction of all elements of the proposal.

Return to Agenda

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

(2) In lieu of the requirements in (1)(a) above, an application for a Master Plan Development (MPD) CZD shall include the requirements in Section 6.7. The requirements of (1)(b) through (1)(h) above are applicable for MPD-CZ applications.

(3) 26 copies of the application package required in (1) and (2) above shall be submitted by the applicant.

(4) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CZD.

(D) Neighborhood Information Meeting [9]

(1) Before a Public Hearing may be held on an accepted application for a CZD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.

(2) The applicant shall obtain property owner mailing address information from the Orange County Land Records department and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a CZD has been requested.

(3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.

(4) The Neighborhood Information Meeting shall be held a minimum of 14 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

(E) Review and Evaluation of Application

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

(F) Approval and Conditions

(1) The Board of County Commissioners shall take action on the application to rezone the property in accordance with the procedures outlined within Section 2.8.

(2) The applicant or the County may recommend that reasonable and appropriate conditions be attached to the approval of the application

(3) Conditions and site-specific standards shall be limited to those that address the conformance of the development to County ordinances, the adopted Comprehensive Plan, or any other relevant plans that address the impacts reasonably expected to be generated by the proposed development. Any such conditions may address:

(a) The compatibility of the proposed development with surrounding property,

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

Return to Agenda

(2) Attendees shall include all carriers and tower companies who have either filed applications the previous year or anyone who has expressed an interest in filing an application to construct a telecommunication support facility within the County.

(3) The County shall notify each party of the date, time, and place of the meeting no later than 30 days prior to the meeting.

(4) Those individuals/firms intent on submitting development applications are expected to attend the meeting. While a lack of attendance will not prevent the submittal of an application, it will prevent the applicant's ability to participate in the discussions outlining the areas of concentration for the location of telecommunication support structures for that given year.

(D) Applications for the development of telecommunication support structures shall be processed in accordance with the provisions of this Ordinance.

5.10.4 Existing Wireless Telecommunications Support Structures

(1) Telecommunications equipment as accessory uses may be placed on existing wireless support structures in accordance with the provisions of this Ordinance.

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

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

(A) Wireless telecommunications support structures shall be permitted as a principal or accessory use in accordance with the Table of Permitted Uses and as follows:

(1) On property owned by the County or any public entity, except those designated as historic properties or sites, the County may, in its sole discretion as the owner of the property, authorize the application and use of County property after the applicant executes a lease agreement acceptable to the County.

(2) Wireless telecommunications facilities, as part of existing utility poles shall be permitted as an accessory use. Wireless facilities shall be constructed as part of the existing utility poles or as replacements for the existing utility poles. No freestanding towers constructed exclusively for personal wireless services shall be permitted within utility easements.

(3) The placement of new wireless telecommunications support structures shall be in accordance with the Table of Permitted Uses, except as permitted in the Master Telecommunications Plan ("Plan") or by Section 5.10.6 of this Ordinance.

5.10.6 Administrative Approval of Certain Telecommunication Facilities

(A) **Applicability**

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

(1) New stealth telecommunications wireless support structures up to 75 feet in height that are sufficiently disguised so as to minimize visual impact;

(2) Any wireless support structure less than 75 feet in height;

(3) Any wireless support structure less than 200 feet in height located on property that is owned or leased by Orange County; and

Return to Agenda

(4) Any wireless support structure less than 200 feet in height on which the owner of such facility permits the County to collocate its wireless facilities on the structure at no charge to the County when the location of such facility is of benefit to the County as determined in the sole discretion of the County.

(5) A written decision approving or denying an application for administrative approval of a telecommunication facility under this section shall be issued no later than 45 days following the submission of a complete application.

(6) Collocation applications meeting the following requirements:

(a) The proposed additional facility will not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached consistent with Section 2.7.14 of the Ordinance.

(b) The proposed additional facility will comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

(c) The proposed additional wireless facilities comply with all federal, State, and local safety requirements.

(d) The proposed additional facility does not exceed the applicable weight limits for the wireless support structure.

(B) Submittal Requirements

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

(C) Neighborhood Information Meeting [11]

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

5.10.7 Antennas Not Located on Wireless Telecommunications Support Structures

(A) General Standards

(1) To minimize adverse visual impacts, stealth antenna types shall be preferred. If a non-stealth antenna is proposed, the application shall be required to demonstrate, in a technical manner acceptable to the Planning Director, why the stealth antenna (i.e. an antenna incorporated into the architecture of the building or fully screened from view from sight proximate to the antenna) cannot be used for the particular application. This does not preclude a combination of the various types of antennas.

(2) Antenna dimensions shall be subject to approval by the Planning Director. A statement shall be submitted, prepared by a professional engineer competent to evaluate antenna choices, to certify the technical need for the required dimensions.

(3) Prior to the issuance of a Building Permit by the Inspections Division, the application shall provide evidence that the wireless telecommunication support structure or antennas are in compliance with FAA regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.

[11] Staff is adding language to ensure all administratively approved towers will comply with the same neighborhood information meeting requirements as any other regulated wireless support facility.

Return to Agenda

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

(B) General Submittal Requirements – Special Use Permits

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

(1) Overall Policy and Desired Goals

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

(a) Alternatives to constructing new wireless support structures, including but not limited to the collocation of wireless telecommunications equipment and mitigating the visual effect of a wireless telecommunication support structure to an extent not commercially impracticable; and

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

(2) Balloon Test

(a) The applicant shall, at least six weeks prior to a Class B Special Use Permit public hearing and at least 11 weeks prior to a Class A Special Use Permit public hearing, conduct a balloon test whereby the applicant shall arrange to fly, or raise upon a temporary mast, a minimum of 10’3” in length, brightly colored red or orange balloon at the maximum height of the proposed new wireless support structure.

(b) The balloon test shall be flown for at least four consecutive daylight hours starting sometime between 10:00 A.M. and 2:00 P.M. on the dates chosen.

(c) A notice of the dates (including a second date in case of poor visibility, weather or atmospheric conditions on the initial date), times, and location of the balloon test shall be mailed, by certified mail, return receipt requested, by the applicant, to all persons owning property within 1,000 feet of the subject parcel no less than 14 days in advance of the first test date. The data contained within the office of Orange County Land Records shall be used as the primary source for determining which residents are to receive notice of the balloon tests.

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

Return to Agenda

County's telecommunications consultant, can explain the Special Use Permit review process. [12]

(d) The primary date shall be on a weekend (excluding legal holidays), but to prevent delays in the processing of the application, and in case of poor weather or atmospheric conditions on the initial date, the secondary date may be a weekday.

(e) The applicant shall inform the County Planning Staff, in writing, of the dates and times of the test at least 14 days in advance.

(f) The applicant shall also post a sign on the subject property, and directional signs posted at locations to be determined by Planning Staff. The signs shall measure no more than nine square feet in area and no less than four square feet in area, giving the contact information of the County Planning Department, the proposed dates, times, and location of the balloon test. The signs shall be posted to meet the same time limits as provided for in the balloon test notification as stated above.

(3) Submittal Requirements

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

(a) A site plan showing the following:

(i) The entire site (including property boundary lines) and size of all existing structures within 500 feet of the site,

(ii) Existing and proposed structures on site,

(iii) The fall zone of the tower,

(iv) Existing and proposed topography at a contour interval of five feet and

(v) Any officially designated floodways and floodplains, or the presence of alluvial soils.

(b) Plans, and elevations for all proposed structures and descriptions of the color and nature of all exterior material, along with the make, model, and manufacturer of the proposed structure, maximum antenna heights, and power levels.

(c) A Landscape and Tree Preservation Plan drawn at the same scale as the site plan, showing the existing and proposed trees, shrubs, ground cover and other landscape materials. This plan shall minimize adverse visual effects of wireless telecommunications support structures and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.

(d) Evidence that the applicant has investigated the possibilities of placing the proposed equipment on an existing wireless support structure. Such evidence shall consist of:

(i) A listing of all wireless telecommunications support structures within a two mile radius of the proposed wireless support structure site and a listing of all wireless support structure, utility poles and other structures in the vicinity of the proposed facility

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

ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 8, 2014

Action Agenda Item No. 10

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

DEPARTMENT: Planning and Inspections **PUBLIC HEARING: (Y/N)** Yes

ATTACHMENT(S):
1. Discussion Points Between Planning Board Chair and Planning Staff

INFORMATION CONTACT: (919)
Perdita Holtz, Planning, 245-2578
Craig Benedict, Planning, 245-2592

PURPOSE: To discuss the public hearing process changes presented at the September 8, 2014 quarterly public hearing and provide either input or a recommendation to the Board of County Commissioners (BOCC). A report on the topic will be prepared for the November 6, 2014 BOCC meeting.

BACKGROUND: The quarterly public hearing materials (available at http://orangecountync.gov/occlerks/140908.pdf) provide background on this issue and are not included as part of this item in order to minimize the length of the materials included. The discussion that occurred at the public hearing can be viewed at http://orange-nc.granicus.com/MediaPlayer.php?view_id=2&clip_id=754. As was briefly discussed at the public hearing, some points of the process are related to policy and do not need to be written into the Unified Development Ordinance (UDO) while other aspects of the process do need to be included in the UDO. If there are concerns or questions about whether particular points are policy-related or necessary for the UDO, staff (Planning and Attorney's Office) can assist in making this determination.

At the conclusion of the public hearing there were three points of consensus among BOCC members:

1. Allow the public to make comments at the end of the process.
2. Do not require a quorum of Planning Board members at public hearings.
3. Public hearing legal ads do not necessarily need to be Consent Agenda items, circulation via e-mail is likely OK. (Note that this is an internal process component that is not written into the UDO and does not require Planning Board involvement).

The original impetus regarding this topic was as follows:

1. Remove the Planning Board as an official board at the public hearing (e.g., do not require a quorum of Planning Board members).
2. Increase the frequency of public hearings (currently held 4 times per year on dates specifically set aside only for public hearings).

Return to Agenda

Because these two points necessitate changes in existing process, additional discussion has arisen. The most important points to consider are:

- Does the Planning Board recommendation occur before or after a BOCC-only public hearing?
- Does increasing the frequency of public hearings cause too great a change in BOCC meeting agenda internal processes and potentially impact BOCC meetings/calendars too much?
- What is the role of the Planning Board in quasi-judicial matters (Special Use Permits) if the Planning Board is no longer an official board at the public hearing?
- Additionally, a separate text amendment related to neighborhood information meetings in advance of Special Use Permit applications has raised questions about how the public can be more involved in matters prior to the public hearing.

In analyzing this topic, Staff believes it may be helpful to breakdown future discussion based on the type of decision being made:

1. Legislative
    a. Comprehensive Plan Text
    b. Comprehensive Plan Future Land Use Map
    c. UDO Text
    d. Zoning Atlas (map) Amendments (general use districts and conditional zoning districts)
2. Quasi-Judicial
    a. Class A Special Use Permits (SUP)
3. Legislative/Quasi-Judicial Mix
    a. Conditional Use District (a rezoning that also requires a Class A SUP)

At the present time, Orange County's process is generally the same for these three different (from a legal perspective) types of public hearings. However, the process can be different for each type if the local government so chooses. Quasi-Judicial matters have very specific legal requirements whereas there is significant discretion in Legislative matters.

Staff compiled a list of public hearing items since May 2011 (the date was chosen because the UDO was adopted in April 2011) to determine the breakout of the types of items Orange County has considered in recent years and the initiator of the item (Application by an Individual or County-initiated). The following table illustrates the information:

Summary by Application Type/Initiator				
	Total	Legislative	Quasi-Judicial	Legis./ QJ Mix
Applicant	16 (24%)	8	6	2
County	50 (76%)	50	-	-
Totals	66	58 (88%)	6 (9%)	2 (3%)

Planning staff met with Planning Board Chair Pete Hallenbeck on September 25 to discuss this topic. The most salient points discussed during this meeting are included in Attachment 1 and may be helpful in framing thoughts. Additionally, an internal County staff meeting comprised of Planning staff members, the County Manager, the County Attorney, and the Staff Attorney occurred later in the day on September 25. The preliminary staff recommendation resulting from this meeting is as follows:

Return to Agenda

1. In regards to quasi-judicial matters, suggest having the Board of Adjustment handle all Special Use Permit applications.
    a. Currently, the Board of Adjustment hears and decides Class B SUP applications while the BOCC hears and decides Class A SUP applications, with a recommendation made by the Planning Board on Class A SUPs.
    b. Implementing this idea would result in the BOCC making policy decisions (e.g., standards Special Use Permits have to adhere to) while the Board of Adjustment would apply those policies.
    c. Implementing this idea would remove the Planning Board from making a recommendation on an SUP application.
2. Remove the existing requirement for a joint BOCC/Planning Board public hearing.
    a. Implementing this idea would remove the Planning Board as an official board (quorum required) at public hearings.
3. Write the process regulations so that the Planning Board gives its recommendation (on Legislative items) prior to the BOCC-only public hearing.

Staff also believes that if #1 does not occur consideration should be given to removing the Planning Board from Class A SUP matters. This idea becomes particularly relevant if the Planning Board no longer attends the public hearing as an official board.

The Attorney's office intends to attend the October 8 Planning Board meeting and could address questions Planning Board members have in regards to quasi-judicial or other legal matters.

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

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

1. Discuss proposed public hearing process changes.
2. Provide either input or a recommendation on what the public hearing processes should be.

Return to Agenda

Attachment 1

Synopsis of September 25, 2014 Meeting between Planning Board Chair Pete Hallenbeck and Planning staff

Legislative Items

1. Current process of keeping the public hearing open in order to allow for written comments only after the public hearing is awkward.
2. People realize the Board of County Commissioners (BOCC) is final decision maker so they tend to address the BOCC and see the Planning Board (PB) more as "middle management" since the PB is advisory only.
3. If there was a PB meeting early-on, before the public hearing, that was noticed (first class mail notifications to adjoining property owners plus post a sign on the property for map amendments), the PB could be involved in projects/amendments early in the process. This could be a "win" on several points:
    a. Would result in more notification time for the public and people are informed of the process earlier.
    b. The PB meeting (the public could comment) could be viewed as a "dry run" for the formal public hearing and could help all "sides" frame their thoughts/arguments better.
    c. The PB meeting could help determine which items have high public interest and which items have lower public interest. (The BOCC might get a taste of public reaction before the public hearing).
    d. Having the PB make its recommendation after it has heard the opinions of all sides at its meeting would enable the BOCC to have more options for action at the conclusion of the public hearing:
        i. Close the public hearing the night of the hearing and either:
            1. Vote that night (this would enable quicker decisions on the items that have lower public interest [once called the "no brainers" by a former PB member]).
            2. Schedule the decision on an item for a future BOCC regular meeting.
            3. Send the item back to the PB for reconsideration if the BOCC believes that new information came forward at the public hearing that had not been considered by the PB at its earlier meeting.
        ii. In legislative matters, it is not necessary to leave the public hearing open since comments can be made at all meetings. Statutes require only that a public hearing that meets statutory notice requirements be held.

Return to Agenda

   e. The requirement for written comments only after the public hearing could be dropped and the BOCC could hear from interested parties again at the meeting they make a decision (if the BOCC opted not to vote the night of the public hearing)

4. The PB Ordinance Review Committee (ORC) is involved early on in shaping any County-initiated UDO text amendments, so any PB members who are interested in a text amendment have fairly early "access."

<u>Quasi-Judicial Items</u>

1. There are concerns about the Planning Board being involved in any recommendation on quasi-judicial (QJ) items if they are not an official board (quorum required) at the public hearing. There are ways around this concern but the Planning Board will have to be very careful about how it allows public comment and how that comment weighs into its recommendation.
2. QJ items involve a yes/no checklist of whether a project meets the requirements spelled out in the UDO. By and large, review is relegated to determining whether a specific standard is met or not and if all standards are met, the permit must be issued.
   a. If the PB is not in attendance at the public hearing, it should not make findings on the requirements contained in Section 5.3.2(A)(2) which are:
      a) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted;
      b) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property); and
      c) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.

   2. The three points listed directly above are the main findings that must be made in order to issue a permit and are the basis of much of the expert testimony that is made at the QJ hearing.
3. Some PB members in the past have mused that going through the checklist felt a bit like "rubber stamping" an approval.
4. If the PB is to remain part of the QJ process, consideration should be given to having the PB make its recommendation prior to the QJ hearing in order to avoid

Return to Agenda

any confusion about whether evidence is being collected after the official QJ hearing.

Legislative/Quasi-Judicial Mix

1. This is an awkward process in all North Carolina communities that use this type of process.
2. In the mid-2000s, Statutes were amended to allow a new type of zoning (conditional zoning districts, a purely Legislative process) that could negate the purpose of the Legislative/QJ Mix.
    a. In Orange County, these projects are:
        i. Any requests for the Conditional Use District
        ii. Subdivisions containing 41 or more lots in Rural Designated areas
        iii. Subdivisions containing 80 or more lots in Urban Designated areas
3. The Staff Attorney has suggested that new conditional zoning districts could replace this approval process. This is an idea that merits additional consideration.
4. Resolution on how to handle the Legislative/QJ Mix process will be dependent on decisions made on the individual processes, so discussion cannot be framed until this occurs.

Conclusions

Mr. Hallenbeck will lead the Planning Board in discussing this matter at its October 8th meeting and stated he believes discussion should strongly consider the following:

1. Have the PB recommendation come before the public hearing on Legislative items.
    a. Have PB involvement early on with notice (first class mail and a sign posting) to adjoining property owners (in the case of map amendments).
    b. Implement the idea of posting upcoming items on the Planning Department website so people can be apprised of upcoming items earlier and can attend the PB meeting to voice their comments. (This would be particularly relevant in regards to text amendments since no mailed notices occur with text amendments).
2. Remove the PB from the QJ process.
    a. The PB would no longer make a recommendation on QJ matters.

Return to Agenda