

MINUTES
ORANGE COUNTY PLANNING BOARD
NOVEMBER 6, 2013
REGULAR MEETING

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MEMBERS PRESENT: Peter Hallenbeck (Chair), Cheeks Township Representative; Lisa Stuckey, Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township; Tony Blake, Bingham Township Representative; James Lea, Cedar Grove Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative;

MEMBERS ABSENT: Johnny Randall, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Stephanie O'Rourke, Eno Township Representative; Herman Staats, At-Large, Cedar Grove Township; Vacant- Hillsborough Township Representative;

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

OTHERS PRESENT: Danny Jones; Michael Neal; Pam Jones; Laney Jones; Harrison Jones; Chris Hagenberger; Dean Shangler; Janine Schreyack; Patti Szogas

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

Pete Hallenbeck called the meeting to order and let the members know that due to some correspondence that went out to the public regarding the start time of the meeting, Item 7 could not be heard until 7:30.

AGENDA ITEM 2: INFORMATIONAL ITEMS

- a) Planning Calendar for November and December
 - a. Dinner meeting with BOCC – 5:30 p.m. on November 25 (before QPH) @ Link Service Center.
 - b. Quarterly Public Hearing – 7:00 p.m. on November 25 @ Dept. of Social Services – draft legal ad attached

**AGENDA ITEM 3: APPROVAL OF MINUTES
OCTOBER 2, 2013 ORC MEETING
OCTOBER 2, 2013 REGULAR MEETING**

MOTION by Lisa Stuckey to approve the October 2, 2013 Planning Board ORC notes. Seconded by Tony Blake.
VOTE: UNANIMOUS

MOTION by Tony Blake to approve the October 2, 2013 Planning Board Regular Meeting minutes. Seconded by Maxecine Mitchell.
VOTE: UNANIMOUS

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

55 AGENDA ITEM 5: PUBLIC CHARGE

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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 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.

67 **PUBLIC CHARGE**

68 The Planning Board pledges to the citizens of Orange County its respect. The Board asks its
69 citizens to conduct themselves in a respectful, courteous manner, both with the Board and with
70 fellow citizens. At any time, should any member of the Board or any citizen fail to observe this
71 public charge, the Chair will ask the offending member to leave the meeting until that individual
72 regains personal control. Should decorum fail to be restored, the Chair will recess the meeting
73 until such time that a genuine commitment to this public charge is observed.
74

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76 AGENDA ITEM 6: CHAIR COMMENTS

77
78 *(Planning Board started with Item 8 first to allow time for the expected public to arrive)*
79

80
81 **Agenda Item 8: Planning Board Annual Report and Work Plan for County Commissioners' Annual**
82 **Planning Retreat** – To discuss the input form for the annual BOCC planning retreat in early
83 2014. The annual report informs the BOCC of the past year's activities of advisory
84 boards/commissions and assists in overall County work planning
85 **Presenter:** Craig Benedict, Planning Director
86

87
88 Craig Benedict: At our dinner meeting on the 25th, we will talk about what we have achieved in the previous year
89 and what we plan to achieve next year and this annual report will be our agenda. We will begin on page 60 with the
90 summary. Reviewed report.
91

92 Pete Hallenbeck: On page 66, we are trying to get a handle on adult entertainment, gaming and nuisance
93 ordinance to protect the EDDs.
94

95 Paul Guthrie: The first one that strikes me is the first one under Tony's name which is transit oriented development
96 and maybe a discussion on the linkage between transportation as we see it moving ahead in the county and
97 development. I think we could mention several topics but it takes it into areas this Board doesn't deal with very
98 quickly. For instance, the railroad and what is the railroad going to be like in 10 or 20 years. I will be glad to share
99 it with everyone but I'm not sure how you would frame that.
100

101 Pete Hallenbeck: The format on this page is almost sufficient. We would like to say to the BOCC that we have
102 members that are concerned about how to deal with transit oriented development.
103

104 Paul Guthrie: A sub part of that would be that is highlighted by our discussion of small business in the county and
105 rural areas is people's ability to get to work and is there a way to have a logical and efficient development in the
106 county that we can accentuate the desirability of good transit.
107

108 Tony Blake: I would be happy to take it off line with you. We can work together on that.

109
110 Craig Benedict: We have highway corridors, bus corridors, rural areas and the whole county is not urbanville so the
111 land use topic is a good one.
112
113 Tony Blake: The TTA is holding three informational sessions coming up.
114
115 Paul Guthrie: The TTA is not going to address the kind of issues I would address.
116
117 Pete Hallenbeck: The challenge is to get enough detail that it is not as broad as transit are in the development but
118 no so much detail it is a 15 minute because you only have a minute or two.
119
120 James Lea: What is the County's current ordinance on adult entertainment?
121
122 Michael Harvey: We have an arcane definition; we do not permit them which are technically in violation of state
123 law. We have a draft ordinance that needs to go the attorney's office for review but that is the current status.
124
125 Craig Benedict: For five years we have brought it up because you need to have this done before the issue comes
126 up.
127
128 James Lea: Do we know what Larry's concern was about adult entertainment.
129
130 Pete Hallenbeck: You want to get a handle on it before someone comes in and sees an area that will be industrial
131 zoned. Residences are far away and schools and churches are far away and they put in a permit and there is
132 nothing to legally keep you from saying no.
133
134 Craig Benedict: It hasn't come to the top of the list for the BOCC to say go because it does bring a lot of attention
135 to it.
136
137 James Lea: We do have them, we just don't allow. Are we planning to develop an ordinance?
138
139 Craig Benedict: You would have to develop an ordinance that is consistent with state statute. You cannot be
140 completely prohibitive but you can set distance requirements.
141
142 Pete Hallenbeck: We need to let the BOCC know that the county needs to get on top of before we get that first
143 application.
144
145 Buddy Hartley: Nothing new.
146
147 Maxecine Mitchell: I would like to echo the concern about transportation. Affordable housing in Chapel Hill is
148 probably non-existent. A lot of people have to look elsewhere in Hillsborough and how will they commute back and
149 forth if their job is located in Chapel Hill or Carrboro since some people can't afford a car and gas prices.
150
151 Pete Hallenbeck: When you discuss transit oriented development, you also want to focus on helping low income
152 people.
153
154 Tony Blake: Under Item 2, I have been having some, just because of the USDA loan we used to build and expand
155 our fire station, I have had interesting conversations with the USDA and I wonder if there is a partnership
156 arrangement to encourage USDA to invest in some of these rural economic zones. Especially regarding sewer and
157 water infrastructure which is holding people back from opening a small business.
158
159 Lisa Stuckey: I am really glad you are bringing up numbers four and five. We want to catch these spin off
160 entrepreneurial companies that will come out of Carolina North.
161

162 Pete Hallenbeck: Item 3, I have been pushing that. We do have people moving into areas and are surprised to
163 hear that the fire truck can't get in there. I agree with number four.

164
165 Craig Benedict: I will organize the comments from tonight and put it into a master list.

166
167 Pete Hallenbeck: I want everyone to say something to the BOCC so they will understand we are working as a
168 group.

169
170
171 **Agenda Item 7: Major Subdivision Concept Plan** – To review and make a decision on a major subdivision
172 concept plan application (Triple Crown Farms), located off Dairyland Road.
173 **Presenter:** Jennifer Leaf, Planner I and Michael Harvey, Current Planning Supervisor

174
175 Michael Harvey: Reviewed the synopsis of the cadence with respect to review of a major subdivision on page 22 of
176 the abstract.

177
178 Jennifer Leaf: Reviewed abstract.

179
180 Paul Guthrie: Does the runoff go to Morgan Creek?

181
182 Mike Neal: I believe it does go into Morgan Creek. I will have to check to be sure.

183
184 Paul Guthrie: Is there any determination on how this development will affect the water flow into Morgan Creek or
185 Phil's Creek and will that have any effect on the supply capacity to University Lake?

186
187 Michael Harvey: It is always good to bring these issues up at concept plan so the applicant and staff can think
188 about it. My honest answer is based on the preliminary stormwater designs for the project, we don't anticipate any
189 problem with respect to compliance with our code. We do not anticipate a higher increased level of water flow
190 beyond what can be handled as the result of this development. We also don't anticipate a flow problem as far as
191 water supply issues. The applicant can provide guidance on that when we get to the preliminary plat stage but we
192 don't see any issues in talking with Orange County Erosion Control Stormwater management.

193
194 Paul Guthrie: I assume the conversations will blossom and will include OWASA.

195
196 Michael Harvey: Typically, there is not a conversation with OWASA concerning water flow or management; that is
197 obviously the purview of the stormwater manager of Orange County. OWASA is not a required primary partner
198 related to the review of a subdivision project. If you would like for the planning staff to have that conversation with
199 OWASA, I don't see a reason why we could not do that.

200
201 Paul Guthrie: At some point it might be appropriate.

202
203 Michael Harvey: We have submitted this to our joint planning partners for review as required by the joint planning
204 agreement. We do anticipate comments as we move forward.

205
206 Paul Guthrie: Waste disposal on the property, it is probably too early to know how that is planned to be done but I
207 think that is something we need to continue to give attention to.

208
209 Jennifer Leaf: Each lot will be served individually by onsite septic. It is prohibited in the rural buffer to have
210 connection to water and sewer so they have to be done on site and they have done preliminary soil analysis on
211 some of the lots as indicated by the stippled boxes.

212
213 Paul Guthrie: That doesn't tell me what system we are talking about.

214
215 Jennifer Leaf: Each individual system will be sized at the time the building permit is.....

216
217 Pete Hallenbeck: Paul, are focusing on whether the soil they found was suitable for conventional or low pressure
218 pump, what type of system.
219
220 Paul Guthrie: I was looking for information to draw from my own experience as to what the likely impact would be.
221 There are a number of ways to do this.
222
223 Jennifer Leaf: As the preliminary plat stage of this project the applicant will apply to Environmental Health for a
224 comprehensive review of soil suitability. At this point they have not been involved in finding or evaluating soil types
225 with respect to the location of septic systems. After the concept plan is approved, that is when Environmental
226 Health will be contacted and the official perk sites will go out and be located.
227
228 Pete Hallenbeck: This will be part of the preliminary site plan you are supplying is to have more details about the
229 soil test for septic, etc.
230
231 Mike Neal: Sure. We have had a soil scientist come out and look at the soil and there is a shading on the drawing
232 that shows what areas perk on the lot. We have these stipple boxes, we knew those were the size for a
233 conventional system. We knew the soils were acceptable for a conventional system so we ensured that each lot
234 had an area for conventional system and a repair area. When the lots are sold, we know they can put in a
235 conventional system and that will work and the homeowner may choose another system.
236
237 Tony Blake: How large is this acreage?
238
239 Jennifer Leaf: 104 acres.
240
241 Tony Blake: I have a recombination map that shows almost 200 acres. Is it the acreage that constitutes a major
242 subdivision as opposed to a minor subdivision?
243
244 Jennifer Leaf: The number of lots. One new lot up to five is a minor and then six and above is a major.
245
246 Tony Blake: I am still confused about this huge map that shows a recombination of four tracts and it is 200 acreage
247 not 100.
248
249 Michael Harvey: All we can tell you is this is a 104 acre tract by the current tax record.
250
251 Jennifer Leaf: This does have a label of 104 acres on it, the recombination plat, so the plat that was recorded in
252 2005, they shifted some boundary lines so that is how that lot ended up being 104 acres.
253
254 Tony Blake: Some lots are in the rural buffer and in the Chapel Hill school system and some are in the Orange
255 County School system and it appears as if they have already accounted for the impact fees and I wanted to
256 comment about that.
257
258 Michael Harvey: That is on page 36. There will be six lots potentially served by Orange County and 14 lots served
259 by Chapel Hill Carrboro.
260
261 Tony Blake: Since tracts two through four are owned by the same development company that ultimately these
262 tracts will be developed as well?
263
264 Jennifer Leaf: Those tracts are currently developed.
265
266 Pete Hallenbeck: It seems like it meets the requirements and staff is happy with it. Streams are getting good
267 protection and the soils are good enough for conventional. Is there anyone else from the public to comment on
268 this?
269

270 Christine Hagelburger: I share a 1,400 foot long boundary with the project. Please go to the vicinity map. Pointed
271 to the common line on the map. Four of these lots are going on our line which is a more significant impact to our
272 property than to the other properties and it seems you could draw those lines differently than they are on this plat at
273 this time and have less impact on that perimeter of the property. They are the smallest lots and four of them are on
274 my line. I would like to see it drawn more equitably so I do not get the brunt of the impact.
275

276 Dean Shangler: We own a couple of lots to the south. My concern is at the neighborhood information meeting, I
277 had asked about the boundary line along that creek and understood planning staff to say the creek is entirely
278 contained within the land owned by the developers and if that is correct, that is a concern to me because that is not
279 correct as a matter of deed record. My understanding is the lot line should be the center line in the creek. Would
280 we all agree that is correct? If you look at the site analysis, you could see that the property line is the center line is
281 the creek.
282

283 Pete Hallenbeck: When a plan for this is developed, you would like to make sure there is attention paid to exactly
284 where that boundary is in regard to the creek.
285

286 Dean Shangler: Yes. I would like that to be clear.
287

288 Pete Hallenbeck: Do you know how long it was surveyed with regard to using the creek?
289

290 Dean Shangler: I don't know. In some of the older deeds, people who laid our subdivisions in some of the deeds
291 they go, it was mentioned.
292

293 Pete Hallenbeck: When the applicant makes that plan that is something they will be aware of.
294

295 Craig Benedict: The plat in your package is an appropriate survey of it and it does show that the boundary line
296 (showed map). The entire stream is not on that property, there is some on the other properties. (Reviewed map).
297 We will clarify that survey.
298

299 Dean Shangler: On our map, we show the stream buffer only on our property and do not show it on the adjacent
300 properties. It looks like the stream is on our property. The stream itself is the boundary line and it was traversed in
301 2006. I have another concern. I know you said there is a standard 100 foot setback, it is a rural and natural
302 preserve around the creek, could we request making the setback 150 feet to enhance the protection?
303

304 Pete Hallenbeck: That would tie into the density and impact of the houses being close.
305

306 Patty Zogust: When it was going to be developed before, my understanding it that it was because they were flood
307 plains and now there are not, how does that happen?
308

309 Jennifer Leaf: FEMA does modeling so they have much better technology now to model. As a result of work done
310 in 2007 the majority of the floodplain was removed from this property.
311

312 Patty Zogust: So between then and now, they got better technology?
313

314 Michael Harvey: In 2007, FEMA released new maps which we adopted and that removed a lot of flood plain from
315 this property.
316

317 **MOTION** by Buddy Hartley to approve the concept plan as submitted. Seconded by Lisa Stuckey.
318

318 **VOTE: UNANIMOUS**
319
320

321 **Agenda Item 9: Provisions and Maintenance of Sidewalks in the County's Jurisdiction** – To receive
322 educational information on the challenges North Carolina counties face in providing and
323 maintaining sidewalks in unincorporated areas.

324 **Presenter:** Perdita Holtz, Special Projects Coordinator
325

326 Pete Hallenbeck: The Fire Chiefs have their meeting tonight so I have to go there and this is just an information
327 section to I will make a comment and turn it over to Lisa. I was involved with the Efland Small Area Plan 10 years
328 ago but we had a subdivision that came through, the Tinnin Road Subdivision, and there was a conflict in that we
329 have the comprehensive plan that encourages sidewalks and walkways but the comprehensive also encourages
330 affordable and then you have the problem of who pays for the sidewalks and maintenance all of which increase the
331 cost of the housing. In Tinnin Woods subdivision, it was dealt with as we will leave the room for the sidewalks and
332 a path to the school where we will put mulch down and keep it clear and progress like that. This is a sticky one
333 where you are trying to balance what we should do.

334
335 *(Pete Hallenbeck left meeting)*
336

337 Perdita Holtz: Reviewed information.
338

339 Tony Blake: Aren't they in the right of way?
340

341 Perdita Holtz: They are but DOT won't allow them to be in the right of way unless the County agrees to maintain
342 them.
343

344 Tony Blake: So DOT forbids them to be in the right of way.
345

346 Paul Guthrie: It is not just on the east west road in Efland. There are streets and roads in Efland that DOT has
347 never owned the right of way to.
348

349 Tony Blake: The walkability issues, the flow, you don't want the sidewalk to change as you go along. This is a
350 symptom of a bigger issue. It is sort of out of the control of the planning department. I would encourage a place
351 where a transit node might be.
352

353 Paul Guthrie: Who is building the sewers?
354

355 Craig Benedict: Orange County.
356

357 Paul Guthrie: Easements allow sidewalks on top of them?
358

359 Craig Benedict: They are focused on water/sewer utilities. There is not as much of an encumbrance on the
360 property when the utilities are underground.
361

362 Buddy Hartley: We were saying about the Tinnin Wood subdivision they should have sidewalks, by doing that they
363 tabled everything?
364

365 Perdita Holtz: The overlay districts didn't have anything to do with Tinnin Woods but you had discussed Tinnin
366 Woods prior to the overlay districts. My recollection is that Johnny Randall wanted bike lanes, etc. and he really
367 pushed it.
368

369 Buddy Hartley: There was no push of anything else.
370

371 Perdita Holtz: Johnny and Larry were particularly vocal about the issue.
372

373 Buddy Hartley: We voted on something?
374

375 Perdita Holtz: Yes.
376

377 Buddy Hartley: I would not have voted for this if I was here. I don't remember that.

378
379 Craig Benedict: We brought the recommendation of the Planning Board to put it on the agenda, our attorney said
380 how can you impose these takings on private property so he pulled back from the Planning Board recommendation.
381 Then the recommendation that went through said we can't do anything, public sidewalks, etc. then the BOCC saw
382 all the discussion and then it became a lot of misunderstanding. Then they denied everything.

383
384 James Lea: So what is the point?

385
386 Perdita Holtz: We were not able to have all our information about the problems with what the Planning Board was
387 about to recommend so it went through so we thought we would try to make it work then the county attorney said
388 no way so we ended up with a different staff recommendation.

389
390 Tony Blake: What about partnerships with utility companies?

391
392 Perdita Holtz: When an easement is granted, it states specifically what can happen in that easement.

393
394 Paul Guthrie: Why do you have to put the sidewalk in front of the house? Could there be a series of walkways on
395 the back property lines?

396
397 (Different conversations at the same time).

398
399 Paul Guthrie: There are some places where you may be able to work out pathways in open land between
400 structures by a group assembled by the residences.

401
402
403
404 **AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS**

- 405
406 a) Board of Adjustment
407 b) Orange Unified Transportation

408
409
410 **AGENDA ITEM 10: ADJOURNMENT**

411
412 **MOTION:** made by Buddy Hartley to adjourn. Seconded by Paul Guthrie.

413 **VOTE: UNANIMOUS**
414
415

Pete Hallenbeck, Chair