

**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, November 5, 2014
Regular Meeting – 7:00 pm**

No.	Page(s)	Agenda Item
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- 1. **CALL TO ORDER**
- 2. **INFORMATIONAL ITEMS**
 - 3-4 a. Planning Calendar for November and December
 - i. Dinner meeting with BOCC & quarterly public hearing on Nov. 24th has been **CANCELLED**
 - ii. Next regular meeting on Dec. 3rd
 - 5-18 iii. Chapel Hill ETJ Expansion Request

- 3. **APPROVAL OF MINUTES**
19-38 October 8, 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.	39-46	<p>PLANNING BOARD ANNUAL REPORT AND WORK PLAN FOR COUNTY COMMISSIONERS' ANNUAL PLANNING RETREAT: To discuss the input form for the annual BOCC planning retreat in early 2015. The annual report informs the BOCC of the past year's activities of advisory boards/commissions and assists in overall County work planning.</p> <p>Presenter: Craig Benedict, Planning Director</p>
8.	47-53	<p>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - To continue discussion and provide input 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 and was discussed at the October 8 Planning Board meeting. Discussion is expected to focus on the quasi-judicial process.</p> <p>Presenter: Perdita Holtz, Planning Systems Coordinator</p>
9.		<p>COMMITTEE/ADVISORY BOARD REPORTS a. Board of Adjustment</p>
10.		<p>ADJOURNMENT</p>

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

November 2014

November 2014

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Oct 26 - Nov 1							
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Nov 2 - 8				7:00pm *PLANNING BOARD MEETING (West Campus Office Bldg)	7:00pm BOCC Reg Meeting (Whitted Meeting Facility)		
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Nov 9 - 15		7:30pm Board of Adjustment (West Campus Office Bldg) CANCELLED	7:00pm BOCC Work Session (Whitted Meeting Facility)				
	16	17	18	19	20	21	22
Nov 16 - 22			7:00pm BOCC Reg Meeting (Southern Human Services)	7:00pm Assembly of Government (Whitted Meeting Facility) 7:00pm OUTBOARD Meeting (West Campus Office)			
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Nov 23 - 29		Quarterly Public Hearing Cancelled			HOLIDAY	HOLIDAY	
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Nov 30 - Dec 6							

*Planning Board Member Attendance Required

December 2014

December 2014

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

*Planning Board Member Attendance Required

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

Current Planning
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



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



MEMORANDUM

TO: Orange County Planning Board

FROM: Craig Benedict, Planning Director
Michael D. Harvey, Current Planning Supervisor

DATE: November 5, 2014

SUBJECT: Chapel Hill Extraterritorial Jurisdiction (ETJ) Expansion Request

PURPOSE: To be informed of Chapel Hill's request for ETJ expansion into an area currently part of the Joint Planning Area (JPA)

BACKGROUND: The subject area of approximately 1,000 acres is part of an area known as the Historic Rogers Road area. This area was made part of the JPA Chapel Hill Transition Area in 1987 which ceded most of land development rules to Chapel Hill from Orange County. Independent projects have proceeded accordingly since then. However, a community wide sewer proposal is being considered with public funding from Orange County, Chapel Hill and Carrboro in this area. In order to facilitate funding opportunities from Chapel Hill, the area if 'converted' from JPA transition to Chapel Hill ETJ would permit such Chapel Hill contribution.

Orange County is required to review the request in accordance with NCGS 160A – 360. If approved Chapel Hill would use city zoning categories if different than the present JPA zoning categories. Orange County's involvement in land use decisions in this area would cease since Chapel Hill ETJ would be solely in effect.

Orange County planning staff has reviewed the Chapel Hill ETJ expansion proposal in accordance with NCGS and finds it in compliance. Extraterritorial representation is a requirement of state law and changes will need to be made to create ETJ representation instead of JPA transition area representation based on population.



TOWN OF CHAPEL HILL NORTH CAROLINA

Meeting Date: 10/15/2014
AGENDA #8

EXECUTIVE SUMMARY

Title of Agenda Item: Consider the Rogers Road Sewer Project and Extension of the Extraterritorial Jurisdiction (ETJ). (R-4)(O-1)

Council Goal: Focus on Economic Development, Land Use, and Transportation for a Balanced and Sustainable Future

Background: Tonight the Council continues the public hearing from September 8, 2014 to consider amending the boundary of the Town's Extraterritorial Jurisdiction (ETJ). The area currently designated as the Joint Planning Area is being considered for expansion of the ETJ.

In 2012, the Historic Rogers Road Neighborhood Task Force (Task Force) was formed to address the extension of sewer service and a community center to serve the Rogers Road neighborhood. The Task Force recommendations were provided in a report dated September 17, 2013. This report has several key recommendations, with the primary focus being providing sewer service to 86 identified properties.

Fiscal Note: The fiscal impact is approximately \$5.8 million dollars as described in the attached materials, with the proposed Town share of 43%, or approximately \$2.5 million.

Recommendations: That the Council:

- Enact the Ordinance to extend the Extraterritorial Jurisdiction to the area currently within the Joint Planning Area;
- Adopt the Resolution to authorize the Manager to proceed with developing a long term plan for the area.

ATTACHMENTS:

Viewing attachments may require [Adobe Acrobat](#).

[Memorandum](#)

[Resolution](#)

[Ordinance](#)

[Proposed Extraterritorial Jurisdiction Boundary](#)

MEMORANDUM

TO: Roger L. Stancil, Town Manager

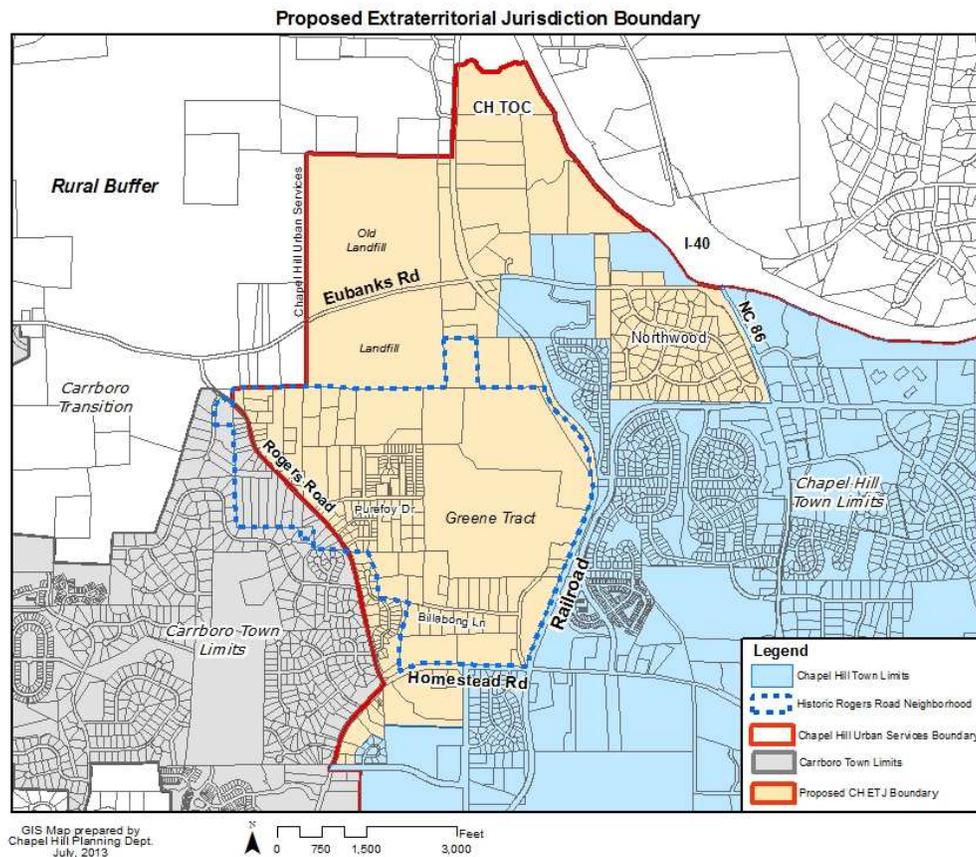
FROM: Mary Jane Nirdlinger, Planning and Sustainability
Loryn Clark, Housing and Community
Judy Johnson, Principal Planner

SUBJECT: Consideration of the Rogers Road Sewer Project and Extension of the Extraterritorial Jurisdiction (ETJ)

DATE: October 15, 2014

INTRODUCTION

Tonight the Council continues the public hearing from [September 8, 2014](#)¹ to consider amending the boundary of the Town's Extraterritorial Jurisdiction (ETJ). The area currently designated as the Joint Planning Area is being considered for expansion of the ETJ. We recommend that Council enact the attached Ordinance, extending the ETJ, and adopt the Resolution, directing the Manager to continue long-term planning efforts.



¹ <http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=2851&meetingid=281>

BACKGROUND

In 2012, the Historic Rogers Road Neighborhood Task Force (Task Force) was formed to address the extension of sewer service and a community center to serve the Rogers Road neighborhood. The Task Force recommendations were provided in a report dated September 17, 2013 and available at this [link](#)². This report has several key recommendations, with the primary focus being providing sewer service to 86 identified properties. This memorandum addresses some of the key recommendations associated with that report.

EXTENSION OF SEWER TO HISTORIC ROGERS ROAD NEIGHBORHHOOD

OUTREACH: Outreach efforts by the Jackson Center have been underway since mid-summer. The Jackson Center has been in contact with nearly all 86 identified parcels. The efforts have been focused on obtaining socio-economic and demographic data, historical connections, community interests, and desire for sewer. The Center is reporting that approximately 82 percent of the households surveyed are at, or below, the 80 percent Area Median Income (AMI) threshold and approximately 49 percent of the households are below 50 percent of AMI. Community development block grant (CDBG) programs serve low and moderate income households. For a family of four, a household income of less than \$52,550 is at 80 percent AMI and less than \$32,850 is at 50 percent AMI.

The Jackson Center has been working collaboratively with the Rogers Eubanks Neighborhood Association (RENA) in developing community input sessions and newsletters.

SEWER SERVICE: The recommendations from the Task Force Final Report included a recommendation that the three jurisdictions fund the sewer service through a cost share agreement. Pursuant to the agreement, the County and Chapel Hill would each provide 43% of the cost and Carrboro would contribute 14%. The Final Report also recommended a plan that would extend sewer service at a preliminary cost estimate of \$5.8 million to serve the 86 parcels identified in the Historic Rogers Road neighborhood.

Preliminary Engineering is underway by OWASA, at a cost of \$130,000. This cost is shared by the three jurisdictions with Orange County and Chapel Hill contributing \$55,900 each and Carrboro contributing \$18,200. The preliminary engineering field work includes surveying, subsurface utility engineering, and geotechnical evaluation. This work will provide more certainty to the layout and cost estimate, identify the location of buried utilities (which may cause conflicts along the route), and determine the subsurface conditions (such as rock). We anticipate this work should be concluded by March 2015, assuming no weather delays. It is important to note that the preliminary engineering field work does not include services such as design, permitting, or easement acquisitions.

The Town Attorney has determined that we are unable generally to spend Town funds in an area outside of the Town limits and not within the ETJ. An exception to this general rule exists to allow the Town to provide financial support to recreational facilities which are open and

² <http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=2419&meetingid=230>

available to Town residents. Accordingly, in order for the Town to participate in the efforts with Orange County and Carrboro to date, we have increased our contribution towards construction of the clubhouse to include our 43 percent share of the outreach efforts and preliminary engineering costs. The cost of the clubhouse is estimated to be approximately \$700,000 with the Town share of 43 percent equaling \$300,000.

EXTRATERRITORIAL JURISDICTION

The area within the Chapel Hill's portion of the joint planning area (under the Joint Planning Agreement between the Town, Carrboro, and Orange County signed in 1986) primarily east of Rogers Road, is outside of the Town limits and outside the Town's current Extraterritorial Jurisdiction. As such, the Town Attorney has determined that the Town may not provide funding for most projects in this area. If the area were to be included within the Extraterritorial Jurisdiction (ETJ), the Town could spend Community Development Block Grant funds if the area qualified as low or moderate income households. This would allow the Town to contribute towards extending sewer service to the area.

One of the recommendations of the Task Force was for the Town of Chapel Hill to pursue expanding the Town's Extraterritorial Jurisdiction (ETJ) to include the Historic Rogers Road area. The demographic data generated by the outreach efforts of the Jackson Center indicates that a significant percentage of the households will qualify as either low or moderate income households. With this data, Town staff is recommending that the Council consider expansion of the ETJ to allow the Town to spend community development funding in the area even though it would remain outside the corporate limits of the Town. Please see the Recommendations section of this memorandum for additional information.

NEXT STEPS

We have additional recommendations and ask the Town Council for guidance.

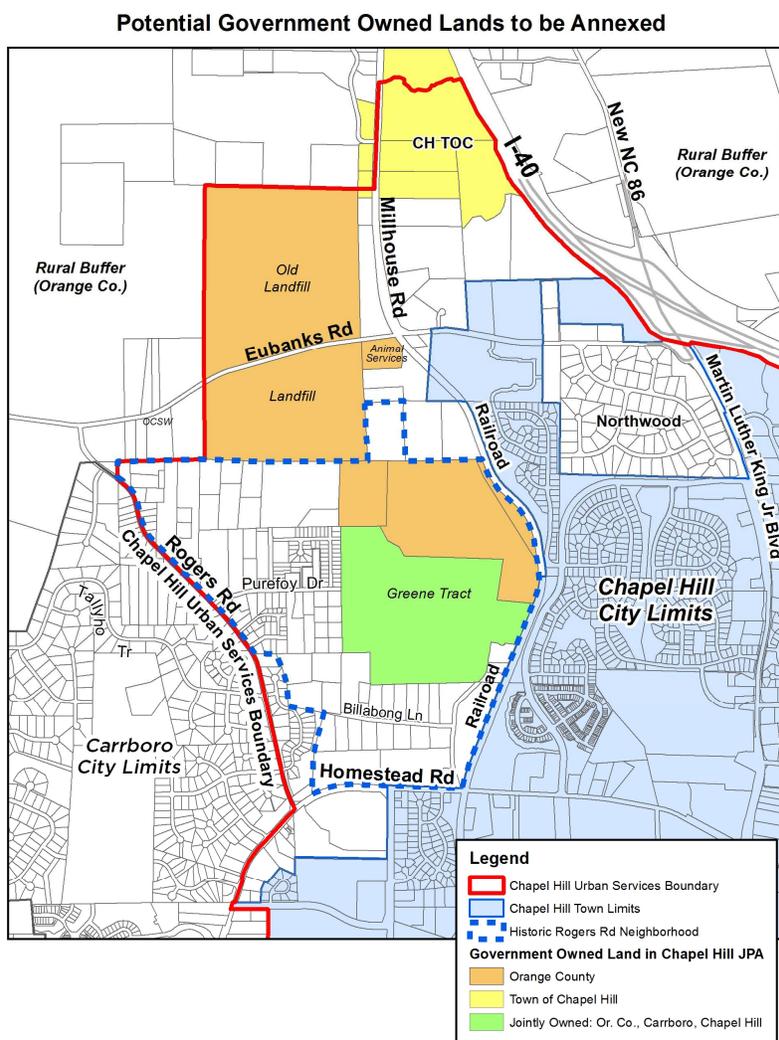
LONG-TERM PLANNING: The provision of sewer service to the 86 identified parcels will likely affect the development patterns and pressures in the Rogers Road area. We believe some systematic planning of the un- (or under-) developed properties is critical in preserving the character of the existing neighborhood and being proactive in managing the area's future. We recommend that the Council direct the Manager to continue and expand efforts for developing a long-term plan for the area. This process would include engaging with the community through the Jackson Center and Rogers Eubanks Neighborhood Association (RENA).

The Managers and staff have also been exploring the option of creating an expanded utility district. The district would include the Historic Rogers Road neighborhood, additional neighborhoods in the path of the sewer lines, and the immediate area that would benefit from the extension of utility lines.

Providing assistance for residents of the Rogers Road neighborhood would continue to be the first priority. The creation of the Utility District could be phased to provide service to residents of the Rogers Road neighborhood first and residents outside the Rogers Road neighborhood

second. The Utility District could also have policies in place to recoup the cost of utility installation in the event the property is (re)developed such as decreasing costs for long-term residents. There are many large parcels of un- (or under-) developed land in the area and bringing urban services to the area may encourage development. As the sewer project provides service to the 86 identified parcels, we believe there is an efficiency of scale to providing utility services to other unserved properties in the area, which can help offset and reduce overall costs of the project.

ANNEXATION OF PUBLICLY-OWNED PROPERTIES: Another one of the recommendations of the task force was for annexation of the county-owned properties in the Historic Rogers Road neighborhood. These properties are shown on the map below. Annexation of these properties could allow for Town funds to be expended for sewer service to those parcels and potentially other properties that would be served along the way.



We encourage the County to consider petitioning the Town Council for annexation of these properties.

RECOMMENDATIONS

1. We recommend that the Council consider the attached Ordinance that would enact the Extraterritorial Boundary expansion for the area identified on the above map.

If the Council moves to adopt the attached Ordinance, the next step would be for the Orange County Board of Commissioners to adopt a resolution approving the Town's action to extend the boundary.

Following the County's and Town's action to extend the ETJ, the Town must, within 60 days, amend the Town's zoning ordinance to zone the expanded area. This zoning process will include receiving a recommendation from the Planning Commission and conducting a public hearing.

2. We recommend that the Council adopt Resolution A authorizing the Manager to proceed with developing a long term plan for the area and updating the Council with progress made. The Council encourages the Manager and staff to engage the Rogers Eubanks Neighborhood Association, Town of Carrboro, and Orange County in developing a plan.
3. We also recommend that the County consider a formal petition for annexation for County-owned (or publicly-owned) properties in the ETJ as recommended by the Historic Rogers Road Neighborhood Task Force.

A RESOLUTION DIRECTING THE TOWN MANAGER TO BEGIN LONG-TERM PLANNING FOR THE ROGERS ROAD NEIGHBORHOOD (2014-10-15/R-4)

WHEREAS, the Town Council understands that the installation of utilities in the Historic Rogers Road neighborhood will likely have an effect on development patterns and pressures; and

WHEREAS, the Town Council believes systematic planning in the Historic Rogers Road neighborhood is critical to preserving the character of the existing neighborhood and being proactive in managing the area's future.

BE IT RESOLVED, that the Council directs the Town Manager to continue and expand efforts for developing a long-term plan for the area; and

NOW BE IT FURTHER RESOLVED that the Council directs the Manager and staff to engage the Rogers Eubanks Neighborhood Association, the Town of Carrboro, and Orange County in developing a long-term plan.

This the 15th day of October, 2014.

AN ORDINANCE EXTENDING THE EXTRATERRITORIAL PLANNING JURISDICTION OF THE TOWN OF CHAPEL HILL (2014-10-15/O-1)

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF CHAPEL HILL as follows:

Section 1. Findings.

- A. The Charter of the Town of Chapel Hill in Chapter V thereof provides for a defined area known as “extraterritorial planning jurisdiction” to extend not more than three miles outside the corporate limits wherein the powers granted by Article 19, Chapter 160A of the General Statutes may be exercised.
- B. The area identified in Exhibit A attached hereto (the “Area”) is located within both the Town’s Joint Planning Area and the Town’s Urban Services District and is within three miles of the Town’s corporate limits.
- C. The Area which is proposed to be included in the extraterritorial jurisdiction includes a portion of the Historic Rogers Road Neighborhood.
- D. The Area is of critical concern to the Town in assisting with extension of utilities to serve the Historic Rogers Road Neighborhood.
- E. The Town has stated interest and has the means to contribute financially toward infrastructure cost in the Area through the use of Community Development Block Funds.
- F. The Town needs extend its Extraterritorial Jurisdiction to include the Area in order to spend Community Development Funds in the Area.
- G. In accordance with N.C. G.S. Sect. 160A-360, the Town held a public hearing on October 21, 2013, to consider the extension of its extraterritorial jurisdiction, and notified property owners of all affected parcels of land as listed on the Orange County tax records via first-class mail at least four weeks prior to the public hearing.

Section 2. Pursuant to N.C.G.S. Section 160A-360, the Area described in Exhibit A is hereby included within the extraterritorial jurisdiction of the Town of Chapel Hill for all purposes authorized by Article 19, Chapter 160A of the North Carolina General Statutes; provided, however, that this Ordinance shall become effective only upon the approval of the Orange County Board of Commissioners, indicating their agreement with the Town’s assuming territorial jurisdiction over the Area.

Section 3. The Town Manager is directed to forward a copy of this Ordinance Extending the Town’s Extraterritorial Jurisdiction and the Town’s request for agreement by the County to the Orange County Board of County Commissioners for consideration at an upcoming meeting of that Board.

Section 4. If the Board of County Commissioners favorably responds to the extraterritorial boundary extension request, the Town will record a copy of this Ordinance in the office of the register of deeds of Orange County and initiate steps required to enact planning regulations for this Area as required by the provisions of N.C. G.S. Sec. 160A-360.

Section 5. If the Board of County Commissioners does not approve the extension of the Town's extraterritorial jurisdiction pursuant to this Ordinance within 180 days of enactment of this Ordinance, the Ordinance shall be void.

This the 15th day of October, 2014.

APPENDIX A

Extraterritorial Jurisdiction boundary amendment as shown on the attached map and as described as follows:

SECTION I

Beginning at a point on the existing Chapel Hill Corporate Limits at the northwest corner of Martin Luther King Jr. Blvd and Weaver Dairy Road and proceeding in a generally northerly direction along said corporate boundary following the centerline of Martin Luther King Jr. Blvd. to the northwestern corner of parcel 9880-27-0438 and the southern right-of-way of Interstate 40; thence leaving said corporate limits line proceeding westerly across MLK Jr Blvd to the southeastern corner of parcel 9880-08-4202, such corner being on the northern r/w line of Eubanks Road and also being on the existing Chapel Hill Corporate Limits Line; thence proceeding westward and following said corporate limits line along the northern r/w line of Eubanks Road to the easternmost boundary of parcel 9880-07-6840; thence continuing northward along said corporate limits line and the easternmost boundary of said parcel 9880-07-6840 to its northernmost boundary and proceeding westward along the northernmost boundaries of said parcel and parcel 9880-07-1883 to a point intersecting with parcel 9870-98-7294 and thence proceeding northward to the northernmost boundary of parcel 9870-98-7294 and then proceeding westward along said parcel's northernmost boundary to the parcel's westernmost boundary; thence proceeding southward along the parcel's westernmost boundary and continuing along the existing Chapel Hill Corporate Limits line proceeding southward along the westernmost boundary of parcel 9870-98-7045 to a point that intersects with Eubanks Road; thence proceeding southward across said road along the westernmost boundary of parcel 9870-97-8235 to the southernmost boundary of said parcel 9870-97-8235 and proceeding eastward along its southernmost boundary to a point intersecting with parcel 9880-06-0661; thence proceeding southward along said parcel's westernmost boundary and the westernmost boundaries of parcels 9880-06-0493; 9880-06-0297; 9880-06-0192; and 9880-06-0857; to the southwest corner of said parcel 9880-06-0857; thence proceeding easterly along the southernmost boundaries of parcels 9880-06-0857; 9880-05-2817; 9880-05-3886; 9880-05-5839; 9880-05-6953; 9880-05-7975; 9880-05-8888; 9880-15-0836; 9880-15-1895; 9880-15-3856; 9880-15-5817; 9880-15-6869; 9880-15-9853; 9880-25-1853; 9880-25-3820; and 9880-25-4859; and crossing the r/w of Martin Luther King Jr. Blvd. to meet the point and place of beginning containing 96.15 acres more or less.

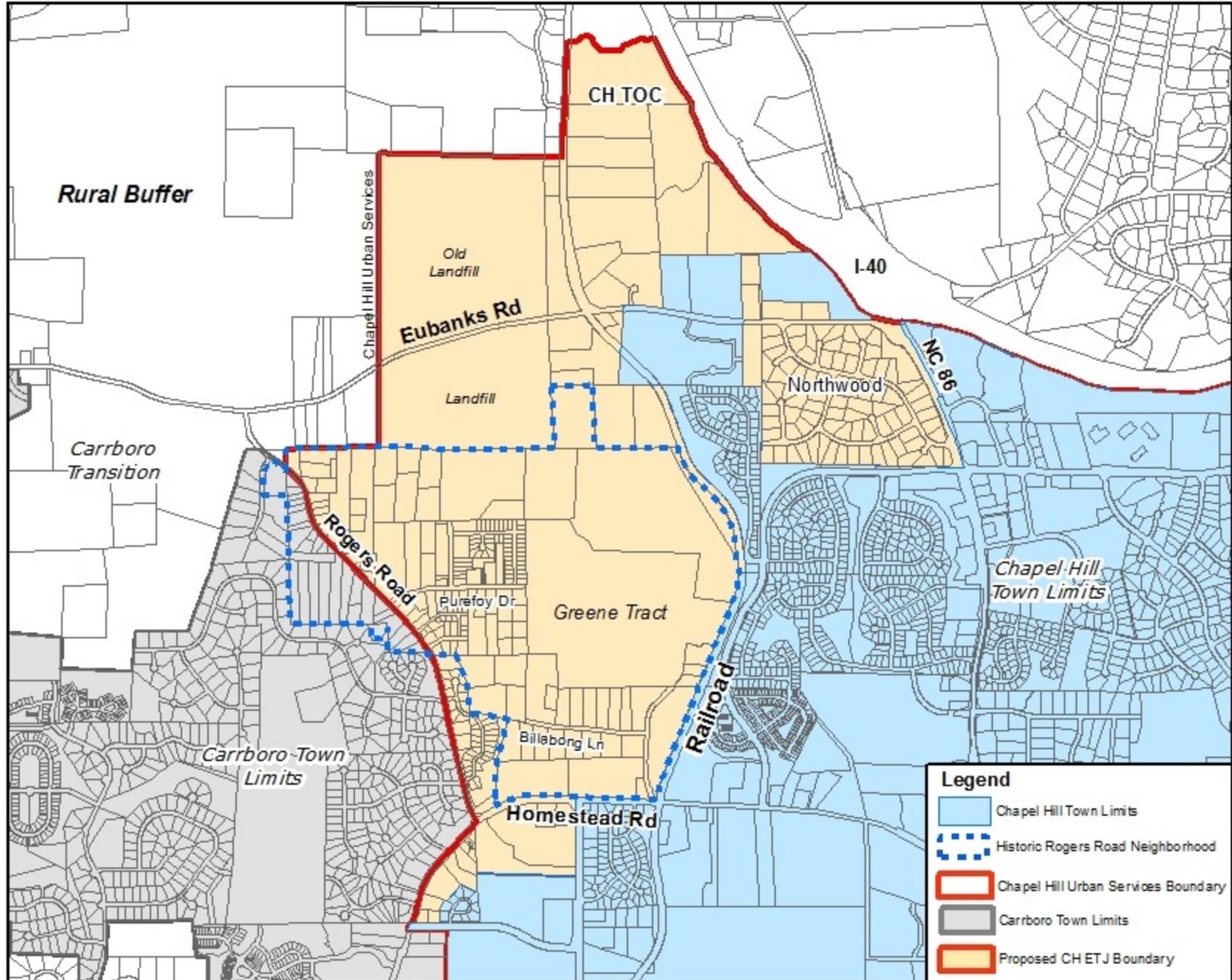
SECTION II

Beginning at a point at the southernmost and easternmost point of parcel 9870-99-7083 and proceeding northward along the western edge of the Interstate 40 right-of-way to a point intersecting with parcel 9871-81-0744 and the center of the stream bank and proceeding generally westward along the center of the stream to a point intersecting with rail line then generally heading southward to a point approximately 250 feet south of the parcel identified as 9870-89-0971 and then heading west along parcel's 9870-68-0669 northernmost boundary proceeding southward along the parcel westernmost boundary, including parcel 9870-66-2911 to a point intersecting with parcel 9870-55-0605 and heading west along the northernmost boundaries of the following parcels: 9870-45-6572, 9870-45-3385, 9870-45-1708, and 9870-35-

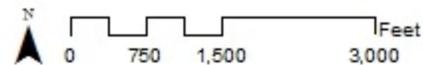
7767; at the westernmost boundary of parcel 9870-35-7767 proceeding south along the parcel's westernmost boundary to a point intersecting with centerline of Rogers Road, proceeding southeasterly along the centerline of Rogers Road to a point intersecting with Homestead Road; then proceeding westward along centerline of Homestead Road to the intersection with High School Road; then proceeding eastward along the southern edge of the High School Road right-of-way to the easternmost boundary of parcel 9779-59-7804.002 proceeding northward along the parcel's easternmost boundary then proceeding northward along the easternmost boundaries of parcels 9870-50-6072 and 9870-50-6280 then proceeding along the southernmost and easternmost boundary of parcel 9870-50-7493 then proceeding along the easternmost boundary of parcel 9870-60-0533 to a point intersecting the southernmost boundary of parcel 9870-60-9427 proceeding to a point on western edge of the Seawell School Road right-of-way then proceeding to following Seawell School Road right-of-way northward the intersection with Homestead Road then proceeding eastward on northernmost edge of the Homestead Road right-of-way to a point intersecting with the railroad tracks then proceeding to following the westernmost edge of the railroad right-of-way generally northward until intersecting with southernmost boundary of parcel 9870-94-9449 and crossing perpendicular to the railroad to the easternmost edge of the railroad right-of-way then traveling northward along the easternmost edge of the railroad right-of-way to a point intersecting with northernmost edge of parcel 9870-95-2979 then proceeding westward to the easternmost boundary of parcel 9870-77-6296 proceeding northward along the easternmost boundary of the parcel to a point intersecting with the northernmost edge of the Eubanks Road right-of-way then proceeding heading generally easterly along the Eubanks Road right-of-way to a point intersecting the easternmost boundary of parcel 9870-88-3323 then traveling northward along the parcel's easternmost boundary to a point intersecting with southernmost boundary of parcel 9870-99-0117 then proceeding along the southernmost boundaries of parcels 9870-99-0117 and 9870-99-7083 to meet a point and place of beginning containing 916.60 acres more or less.

EXHIBIT A

Proposed Extraterritorial Jurisdiction Boundary



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



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MINUTES
ORANGE COUNTY PLANNING BOARD
OCTOBER 8, 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; Andrea Rohrbacher, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Maxecine Mitchell, At-Large Bingham Township; Bryant Warren, Hillsborough Township Representative;

MEMBERS ABSENT: Lydia Wegman-At-Large Chapel Hill Township;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Tom Altieri, Comprehensive Planning Supervisor, Perdita Holtz, Special Projects Coordinator, Tina Love, Administrative Assistant II

OTHERS PRESENT: Bonnie Hammersley, County Manager; James Bryan, Staff Attorney; Andrew Vanard

HANDOUTS GIVEN: *(email from Lydia Wegman concerning Item 10 which is attached at the end of the minutes)*

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS

- a) Planning Calendar for October and November
- b) Dinner meeting with BOCC & quarterly public hearing on November 24, 2014

AGENDA ITEM 3: APPROVAL OF MINUTES
SEPTEMBER 3, 2014 REGULAR MEETING

MOTION by Paul Guthrie to approve the September, 2014 Planning Board minutes. Seconded by Buddy Hartley.

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 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

55 will make every effort to uphold a vision of responsive governance and quality public services
 56 during our deliberations, decisions, and recommendations.
 57

58
 59 **AGENDA ITEM 6: CHAIR COMMENTS**
 60

61
 62 **AGENDA ITEM 7: 2030 COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT:** To make a recommendation
 63 to the BOCC on government-initiated amendments to the Future Land Use Map of the
 64 Comprehensive Plan to assign County land use classifications to approximately 500 acres of
 65 property that are to be removed for the Town of Hillsborough Extraterritorial Jurisdiction (ETJ)
 66 located generally near the Eno River between US 70W and I-85/I-40 in Cheeks and
 67 Hillsborough Townships. This item was heard at the September 8, 2014 quarterly public
 68 hearing.

69 **Presenter:** Tom Altieri, Comprehensive Planning Supervisor
 70

71 *Tom Altieri reviewed abstract and presented a PowerPoint Presentation.*
 72

73 Pete Hallenbeck: Does anyone have any questions for Tom?
 74

75 Tony Blake: I recall a conversation from the BOCC that the underlying concern seemed to be that we were
 76 repurposing land use for agricultural that might be better zoned rural residential or vice a versa and that there might
 77 be some permitted uses on a farm or something that would be disallowed if it was rural residential or again vice a
 78 versa and I think that it's key that the land use match the zoning and so that is my question, does the land use match
 79 the zoning in this?
 80

81 Tom Altieri: You're correct, it does need to and in this case, in the Comprehensive Plan I think you've probably seen
 82 it, a few before in some previous amendments. There's what I call a matrix, it's located in the appendices at the back
 83 of the land use plan and it shows the relationship between the Future Land Use Map categories down one column
 84 and then the rows across are all of the applicable zoning districts. You're right for the Agricultural Residential Land
 85 Use category the only applicable zoning is Agricultural Residential. So that's exactly right.
 86

87 Tony Blake: I believe and again I'm reading between the lines from the County Commissioners' comments, I believe
 88 that going around in some of their heads and I think Commissioner Dorosin in particular was this discussion about
 89 the solar farm in the north and what was permitted and what wasn't permitted and there might be something that was
 90 permitted like a solar farm on a farm as opposed to in a rural residential.
 91

92 Michael Harvey: I want to clarify a solar facility is permitted with a issuance of a Special Use Permit in the Rural
 93 Buffer and Agricultural Residential and Rural Residential land use categories currently.
 94

95 Tony Blake: There's not one that doesn't need a SUP?
 96

97 Michael Harvey: There are three categories of solar array development. There's under 20,000 which accessory as a
 98 Class B and Class A. Class B and Class A would be allowed in the three zoning districts so there is no distinction
 99 from that standpoint.
 100

101 Tony Blake: I was thinking of some of the farms that have put up solar facilities for use on their farms for their own
 102 purposes.
 103

104 Lisa Stuckey: My impression is that AR is less restrictive and you can do more things in there by right, is that
 105 correct? In general.
 106

107 Tom Altieri: Some of the questions are more related to the zoning side. However, Tony does make a good point
 108 which is once the Board has recommended Agricultural Residential on the Future Land Use Map side the only

109 applicable district that can be applied when we get to the zoning side is Agricultural Residential. There are some
110 additional materials outlining the differences in the permitted uses that are part of the other item.

111
112 Tony Blake: I more wanted to get that on the record so that when the Commissioners read it they can either
113 comment on whether I was reading between the lines correctly or not and maybe settle that question.

114
115 Craig Benedict: I think also one of the questions was is this new area more like a rural area or is it like an urban area
116 and somebody mentioned that word suburban. Well, Orange County Land Use and city programs have quite a few
117 demarcations so that's what I think was being inferred that there might be some sort of intermediate category that
118 could be urban in the future. As Tom said in the interlocal agreements, saying that the urban service area boundary
119 stops at this new ETJ boundary really does say this is urban and this is definitely a rural lifestyle. AR fits that well.

120
121 Pete Hallenbeck: My only comment on the topic is I think the Agricultural Residential fits what is currently going on
122 there and that's borne out by that table that says only 15% of that is private and not farm use the other is either farm
123 use or the quasi-public so I don't have a problem with that right now, in 30 years from now, who knows but today it
124 seems like a pretty good call. Also putting sewer and water on Eno Mountain would be a little rough.

125
126 **MOTION** by Lisa Stuckey to recommend approval to the BOCC on the proposed 2030 Comprehensive Plan FLUM
127 amendment. Seconded by Tony Blake

128 **VOTE: UNANIMOUS**

129
130

131 **AGENDA ITEM 8: ZONING ATLAS AMENDMENT:** To make a recommendation to the BOCC on a government-
132 initiated amendment to the Zoning Atlas to assign County zoning districts to approximately 500
133 acres of property that are to be removed from the Town of Hillsborough Extraterritorial
134 Jurisdiction (ETJ) located generally near the Eno River between US 70W and I-85/I-40 in
135 Cheeks and Hillsborough Townships. This item was heard at the September 8, 2014 quarterly
136 public hearing.

137 **Presenter:** Tom Altieri, Comprehensive Planning Supervisor

138
139 *Tom Altieri reviewed abstract and presented a PowerPoint Presentation.*

140
141 Herman Staats: So, the triangle that you said was inconsistently zoned versus land use designation, is there a
142 reason it was zoned that way and if there is not a reason that it's zoned that way should the zoning be changed so
143 that it is consistent?

144
145 Tom Altieri: The reason, I don't know the reason but I think that's how it was zoned when that township was
146 originally zoned. I have a theory which is that it might have something to do with the Hillsborough Township line. I
147 found it interesting that the western side of that R-1 boundary (illustrated on map) that's not a parcel line. That's a
148 line that seems to be a hangover from a township line that for some reason doesn't extend further to the north or
149 south as we know the Hillsborough Township does. Our mapping has gotten significantly better, our GIS and
150 overlays and could be the result of previous less precise mapping.

151
152 Pete Hallenbeck: That area you're talking about, the Hillsborough triangle, is it in a critical watershed area?

153
154 Tom Altieri: It is.

155
156 Pete Hallenbeck: That tempers how much you can do there.

157
158 Tony Blake: How many acres is it.

159
160 Tom Altieri: Maybe 120 acres all those parcels combined.

161
162 Paul Guthrie: What is the ownership pattern? Are there a lot of owners, one owner?

163
 164 Tom Altieri: I don't have that specific information tonight.
 165
 166 Paul Guthrie: Is there any development on it at all.
 167
 168 Michael Harvey: Single family residents on those lots and one of the parcels is part of a larger farm. The Hare
 169 Krishna part of their temple is on the other side of Dimmocks Mill Road there is a mish mash of existing land uses in
 170 that general area.
 171
 172 Pete Hallenbeck: In my opinion at this point, fairly well developed. Most lots have something on them.
 173
 174 Tony Blake: One more question, that phantom line seems to bisect a bunch of lots, does that mean that the lots
 175 have two land use and zoning classifications?
 176
 177 Tom Altieri: One base land use classification and correct, two different zoning classifications.
 178
 179 Tony Blake: This would serve to bring them in line and make them consistent across the lot.
 180
 181 Tom Altieri: That's not part of this amendment. If it is something that this Board wanted to recommend to the County
 182 Commissioners it would require another public hearing and notification and then we could consider that.
 183
 184 Tony Blake: I don't think it's worth it.
 185
 186 Craig Benedict: One other thing, this upgraded consistency statement, just something that we can use for future
 187 reference. With this consistency statement, you see us referring to previous planning studies. One case was the
 188 Hillsborough Interlocal Agreement another planning construct was the water and sewer boundary agreement was
 189 another layer of the planning. As we proceed with these rezonings in the future, you'll see us continue to use the
 190 value of our small area planning processes to show consistency. The law has come back around to support what we
 191 have been doing in the past by having multiple reasons for changing zoning. Some places around the state would
 192 say, just because, so this is a way of incorporating our prior planning and give a good consistency statement.
 193
 194 Pete Hallenbeck: So to put this concept of the consistency statement into perspective, if we're talking about taking
 195 some parcel there and zoning it for some gigantic store or office complex that would be a consistency problem
 196 instead we're wrestling with AR versus R-1.
 197
 198 Paul Guthrie: Has there been any commentary from any of these parties that have an ownership interest on this
 199 particular activity?
 200
 201 Tom Altieri: Very little. They all have received first class mail notification and the information. We had one citizen
 202 that attended the public hearing that spoke to me after the meeting that just wanted more information. I provide him
 203 the information, more detail on his zoning and the permitted uses and Margaret Hauth's contact information with the
 204 Town if he had any interest in how the zoning may have played out had his property stayed within the Town's
 205 jurisdiction. We did have a lot of interest back in January of this year when the Town was looking at both
 206 relinquishing and expanding its ETJ, that involved another 200 or so properties and we did have about 50+ people
 207 show up at that meeting. All but two were there because they owned property within the areas where the Town was
 208 considering expansion. I think a lot of the people dropped off and there have only been a few phone calls, 3 or 4.
 209
 210 **MOTION** by Bryant Warren to recommend to the BOCC approval of the rezoning amendment. Seconded by Buddy
 211 Hartley.
 212 **VOTE: UNANIMOUS**
 213
 214 **MOTION** by Bryant Warren to approve the consistency statement. Seconded by Tony Blake
 215 **VOTE: UNANIMOUS**
 216

217
 218 **AGENDA ITEM 9: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT:** To make a recommendation to
 219 the BOCC on government-initiated amendments to the text of the UDO to require that a
 220 neighborhood information meeting be held at least 45 days prior to the public hearing
 221 regarding applications for a Class A or Class B Special Use Permit. This item was heard at
 222 the September 8, 2014 quarterly public hearing.
 223 **Presenter:** Michael Harvey, Current Planning Supervisor
 224

225 *Michael Harvey reviewed abstract*
 226

227 Tony Blake: I have a couple of questions, it seems to me 45 days is obsessive but what we really need is a window
 228 of time because you don't want somebody introducing a plan and two years and then 45 days before they execute
 229 have a neighborhood information meeting.
 230

231 Michael Harvey: That doesn't typically happen.
 232

233 Tony Blake: It seems me that there should be a minimum and a maximum. The second is in the rural areas, 500
 234 feet is not sufficient. What you will get are people who are really against whatever it is as opposed to a broader
 235 audience of people who may benefit from it in a larger sense. I am pointing specifically to the fire station substation
 236 we built. If we had strictly stayed with the 500 feet we would have gotten the people who didn't want to live within
 237 500 feet of a fire station instead of the larger population who would benefit from a reduction in insurance rates. You
 238 are going to miss in this neighborhood information meeting, the point of view of the greater good.
 239

240 Michael Harvey: You're allowed to your opinion and I don't want to argue with you on it. It is your opinion, I see pro
 241 and con to it. The only comment I will make is that the notice that we send out is not the only means of advertising
 242 we also post the property. I think when you take a look for example the Binks solar facility, which we did notify
 243 people within 500 feet of the property, if you extend that to 1000 feet you would quite frankly only have captured 20
 244 or 30 additional properties owners. Some of which were there because of the advertising signs we had put out at the
 245 property.
 246

247 Tony Blake: I invite people to do the research and look and see roughly how many notices you actually sent out on
 248 these in the rural areas. I think you'll see it 2, 3, 4 people.
 249

250 Michael Harvey: I don't dispute that there are situations where you have areas with large properties where even a
 251 1000 feet wouldn't make much difference.
 252

253 Tony Blake: I understand that registered mail is a cost. It seems to me like there could be other ways to
 254 communicate. Those are my comments.
 255

256 Michael Harvey: Ok
 257

258 Paul Guthrie: I want to go the other way, I think the bigger problem may be in urbanizing areas in terms of the costs.
 259 I thought about our house and it is on a less than one acre lot and under the 500 foot rule, everywhere except one
 260 location you'd pick up maybe 6 or 8 maybe 10 houses. Right across from us is a condominium with about 25 units.
 261 So to do anything that requires a Special Use Permit, the homeowner would maybe need 35 registered letters. I can
 262 conceive of this in a larger or fringe of an urban area having a high density property of one property among many
 263 others that could raise the costs for the applicant significantly. I am a little concerned about what that does to the
 264 small, not to the large corporate well-financed organization, but the small organization that for one reason or another
 265 needs a Special Use Permit. Assuming it is compatible with the general character of the neighborhood, having to
 266 spend that money.
 267

268 Michael Harvey: Again, Mr. Blake is not incorrect and you're not incorrect either. There are pros and cons to both
 269 sides of the equation.
 270

271 Bryant Warren: I noticed in the past when you get ready to do something there are signs put up all around the
 272 neighborhood and area, even if we stick with the 500 feet that should be sufficient enough especially if you continue
 273 putting the signs up.

274
 275 Laura Nicholson: Not to belabor the point, but isn't there a way to just conditionally make it 500 feet for an urban
 276 area but as a rural area make it larger? That way it's not changing the whole fabric, could you change it depending
 277 on..

278
 279 Michael Harvey: I don't know how comfortable I would be with that because that gives greater utility to a Class 2
 280 Kennel for example locating in one area in the County versus another area in the County. I think that I'm going to err
 281 on the side of caution and treat all applicants the same.

282
 283 Pete Hallenbeck: Actually, I'll comment on that, we seem to run into this problem a lot that we almost need a settled
 284 density function. Something that tells you how dense is this and that is used as criteria for notification area. The
 285 problem with that is you can argue over a number, you can argue over a function and whatever you come up with
 286 people putting up kennels will gain the system to do what they want. It's one of those difficult problems that never
 287 have a right answer.

288
 289 Craig Benedict: As part of our discussion more recently about the use of technology and how to get information out
 290 to people different than the mailings, definitely the signs on the property so we are going to start putting our
 291 application out there. Evidently there'll be some mapping and that could be with that and people will see the signs
 292 and be able to look on line to see what's happening. I think we'll use technology, even the statutes are saying that
 293 how we advertise is being liberalized to include media.

294
 295 Pete Hallenbeck: Tony you talked about a sample window.

296
 297 Tony Blake: I was thinking more within a certain minimum distance from the project start and a maximum as well.

298
 299 Lisa Stuckey: Are you worried they'll do it like 60 days out?

300
 301 Tony Blake: Yea, or six months and by then everybody has forgotten or then all of a sudden everybody says, I
 302 remember but it was too long ago.

303
 304 Michael Harvey: Let me try to address that point. Applications are typically submitted currently 60 days to 70 days
 305 before a public hearing, depending on what public hearing. Class A is County Commissioners, four quarterly public
 306 hearing and Class B is Board of Adjustment. So you have a window usually of 50 to 60 days before public hearing
 307 when application becomes submitted, it is then scheduled for a public hearing. We basically have a five day window
 308 according to our ordinance to ascertain whether or not the application is complete and either reject it or accept it and
 309 then submit it for review. Essentially how this process is going to work now is basically once we determine the
 310 application is viable, meaning all components have been submitted and its complete, we are submitting it for peer
 311 review, not only to internal county departments but external planning partners. The Department of Transportation is
 312 a key example. We then have to send out notices advertising the meeting because of the timeline and the window
 313 before the public hearing so basically you're getting a letter from the planning department 14 day minimum before the
 314 neighborhood meeting. That's when we have to send it out as the ordinance is currently proposed. The
 315 neighborhood meeting has to be held 45 days prior to the public hearing is scheduled. So it is conceivable if an
 316 applicant asks to withdraw from one hearing or postpone to a hearing they would have to then also potentially have a
 317 second neighborhood meeting if the first one isn't held. I don't think you're going to go 6, 8 months or a year with
 318 people having a gap between the neighborhood meeting to a public hearing. With the amount of money involved. I
 319 understand what you are saying but I think we're better served by an ordinance amendment that says this has to
 320 happen a minimum of days before the hearing which then gives everybody sufficient time to prepare for the hearing.

321
 322 **MOTION** by Laura Nicholson to recommend approval of the UDO text amendments. Seconded by James Lea.

323 **VOTE: UNANIMOUS**

324

325 MOTION by Bryant Warren to approve the statement of consistency. Seconded by Lisa Stuckey.

326 VOTE: UNANIMOUS

327

328

329 **AGENDA ITEM 10: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT:** To either provide input or make
330 a recommendation to the BOCC on government-initiated amendments to the text of the UDO
331 to change the existing public hearing for Comprehensive Plan, UDO, and Zoning Atlas related
332 items/ amendments. This item was heard at the September 8, 2014 quarterly public hearing.

333 **Presenter:** Perdita Holts, Special Projects Coordinator

334

335 *Perdita Holtz reviewed abstract*

336

337 Craig Benedict: What I put on the Board here is what we presently have. We usually give the Planning Board a
338 briefing on what is coming up at the public hearings, this is kind of informal. We did have the joint public hearing here
339 and then this was referred back to the Planning Board and then back to the Commissioners for action. As you
340 answer these questions, we'll find out, does the Planning Board make recommendations here or do they make
341 recommendation somewhere else? We will draft it up, as you come to some sort of consensus, we'll try to sketch
342 something up for clarity.

343

344 Pete Hallenbeck: I am not going to read what is in attachment one, I'll just make a couple of quick comments. First
345 we are going through something different here, it's not a text amendment or something laid out for us. It's an
346 opportunity to say what we're thinking. With that comes the obligation to try to get our thoughts organized. I think the
347 main thing is the joint meetings were a problem just because of the quorum and I think you could move that so they
348 are not joint meetings. However, I think you can, somewhere between require and strongly urge, have the Planning
349 Board members attend. I think it is really important, since we are giving recommendations, to have as many people
350 as we can present to hear what is going on because there is such a difference between reading something and
351 hearing someone present it. There is talk in the meeting about holding the Planning Board either before or after. I
352 think Planning Board before I like a lot, Planning Board after the decision is like closing the barn door after the horse
353 is gone. I'm not quite sure what we'd do, that was discussed. I think citizen notification which is in here is a good
354 deal and it would be nice if that notification includes a description of the process so people know what to do. Part of
355 what happened in the solar project is people were scrambling with the time they had and they weren't sure what the
356 next steps were and also the dates. I think when you combine what we just voted on with the 45 day and you add in
357 the changes we are looking at now and if that notification spells out what is going to happen, it should be a different
358 picture than what we had before. I like treating legislative quasi-judicial mixes as quasi-judicial and that led to those
359 recommendations. So you can sort of see what I am thinking from that attachment one. What we'll do here is just go
360 around the room and take input that anyone would like to pass on to the Commissioners.

361

362 Perdita Holtz: I forgot to mention that Lydia Wegman sent an email earlier today about her views. I wanted to make
363 sure it got into the minutes that I did distribute her email.

364

365 Pete Hallenbeck: Yes and we should put her comments into the minutes since she is not here. She also talked
366 about it the Planning Board should be at the public hearing and she talked about how they should be required to
367 attend the public hearing. We're seeing everybody wrestle with the same details.

368

369 Paul Guthrie: You took the first part of what I was going to acknowledge and suggest everybody read it carefully.
370 Lydia is a very smart person and has been in this business a long time. I must admit that I've thought a lot about this
371 issue and I really wasn't a 100% percent sure where I was going with it so I decided to make it simple. We are in
372 business for one reason and that is to work for the County Board of Commissioners, present them with our
373 understanding of issues and, where appropriate, make recommendations as we gather as citizens in the County. I
374 would caution us as we shape this don't violate that particular rule and if you decide that it's necessary to change
375 that rule in a significant manner, then you need to decide whether the Planning Board is relevant. I would just say
376 that this is a very fundamental issue that needs to be carefully considered and I understand where the concern
377 comes and it is legitimate concern in terms of the quorum/non-quorum issue. It seems to me we ought to be able to

378 deal with that issue without tearing up the relationship of what a citizen advisory board is to the elected leaders of this
379 County. I think we should think in that line as we work on the process.

380
381 Pete Hallenbeck: I agree we need to find a way to get people there but we need to find a way to do it that doesn't
382 penalize people who come to a meeting if we don't have enough people there. That might be the best way to put it.

383
384 Laura Nicholson: I have a lot of comments, in light of the timeline that we were given to consider this I wonder if we
385 can't divide it. It seems like there are a few things that are easy and specific and there are a few things that are really
386 squishy so if could just get through some of the specifics. In regard to the quorum, I obviously haven't been here
387 long enough to understand why the quorum was ever an issue but it just seems like a communication thing. If we've
388 made it clear that you are supposed to be at as many monthly meetings and you can and be at the quarterly public
389 hearing, and are given insufficient notice, and we double check to make sure there's enough people there, I don't
390 see it as an issue. I think it is a little insane to do this whole roundabout to change this whole process that seems
391 important because we can't get our act together internally and I think it could be fixed internally so it doesn't have to
392 be this whole big process. And the frequency of public hearings, I don't know if that is something that is really
393 specific and easy to figure out or not but I'm just curious if we couldn't just divide it. So talk about a few things we
394 can iron out tonight and a few things we go back and ask for more time to figure out.

395
396 Pete Hallenbeck: Again, it strikes me how to get people there because I think there's agreement that's really
397 important but if we make mistakes and people can't show up for whatever reason, how do you keep that from
398 throwing everything off track? We do serve at the pleasure of the Commissioners so they could certainly come up
399 with some club and stick approach to make everybody come to the meetings but I would leave that decision to them.

400
401 Bryant Warren: Reading this I'm a little concerned with, I feel like it is on the step of dissolving the Planning Board
402 and just going straight to the County Commissioners. I'll apologize I did miss the public hearing last month, I got my
403 days mixed up and thought it was the next night. But it is very seldom that I'll miss a public hearing or a meeting. I
404 will make sure I'm here and I don't understand how the Planning Board can make a recommendation to the BOCC
405 before the public hearing is being held because I really think they need to be involved in the public hearing in order to
406 make an adequate recommendation to the BOCC. I think we can do something, I only been on the Board for a
407 couple of months now so I don't know what went on in the past regarding the quorums. I do feel like if you're a
408 member of the Planning Board then it is your obligation to make sure you attend the meetings. I think what we need
409 to do is stress that we need to keep things the way they are, continue the public hearing, continue with the Planning
410 Board playing a very big role in it so they can make the recommendations they need to, because evidentially, if they
411 don't, then you might as well dissolve the Planning Board and not even have it. That's my recommendation.

412
413 Pete Hallenbeck: One challenge that came out of this whole discussion that hit me was during the quarterly public
414 hearing, I referred to citizens that want to go to the top they want to go to the decision makers and sometimes it's
415 hard to get citizens to come to an advisory board, they want to talk to the Commissioners. Part of the reason for
416 making sure that this notification process tells people about the Planning Board is to give them more opportunities for
417 input. The before and after comes down to what Craig has up on the board. We have a public hearing then Planning
418 Board then BOCC action. I think that's good I think that's critical and I think the Planning Board has to get input so
419 they can make the recommendation to the Commissioners. When I talk about having a Planning Board meeting after
420 what I am talking about is once the Board of County Commissioners has made decision, I don't think there is any role
421 for further input from the Planning Board. I do think it's critical and would even say they shouldn't make a decision
422 before the Planning Board has had an opportunity to make a recommendation. Any time the Commissioners have
423 the option of doing it and just saying wow, this is just too much to handle all this input, they can kick it back to the
424 Planning Board and we can talk it over and it will come up at the next meeting, they have that option. So, yes if the
425 impression that the Planning Board is somehow being diminished in its role, no I don't want that. I do want to make
426 sure we don't hold up the citizens that show up and I'd like to find a way to encourage citizens to come to the
427 Planning Board to get their concerns known earlier. Part of that is what I'm talking about in here about the Planning
428 Board meeting with the public if the public could come to these meetings, it is a bit of a dry run. The other thing that
429 came up in that meeting is another problem we've always had which is would that we had a crystal ball to predict the
430 no-brainers from the ones that are going to be controversial. If we can get citizens to come to the Planning Board

431 with input earlier, we can get a better feel of what is going on. The Commissioners can see that when they read the
432 minutes and I think those are ways the Planning Board can be more engaged than it is now.

433
434 Bryant Warren: The problem with that is they want to meet with the top people and by having a joint public hearing
435 appearing with both then they are both getting the information and people are showing up for it.

436
437 Pete Hallenbeck: I wouldn't be surprised if it continues in the same way but I also don't want to penalize people who
438 want to learn how the systems works and try to get the most out of it. So if they have a 45 day notice and they come
439 to the Planning Board and they're organized and they come to us and say here's the concern and talk about it then
440 the Commissioners can read it. That's the closest we're going to come to that no-brainer crystal ball. They will be
441 much more informed, the Commissioners will, than if all this just hits them for the first time.

442
443 Bryant Warren: Right now we have one every 4 months, if it goes to every 2 months, is there not some way if we
444 need another public hearing we can call one or do we have a time frame that would keep us from doing that.

445
446 Craig Benedict: The Unified Development Ordinance does set out a public hearing specific dates of 4 a year. We
447 can amend the UDO to say there are other times we can consider amendments. As Perdita put up there, there are
448 three types of hearing, the legislative ones are typically a little bit easier. There is a good possibility we could move
449 some of those legislative items to a regular meeting and have some more opportunities for them. We know that the
450 quasi-judicial are usually the ones that are a little bit more labored because of the testimony and that would probably
451 clog up a regular meeting so having the quarterly public hearings isolated for them will probably remain a good idea.
452 We can consider regular Commission meetings to have a public hearing.

453
454 Bryant Warren: I know a lot of developers want to get it out, get it to the public, and get it back as quickly as they can
455 so they can start generating money from it. That's probably what we're trying to do is to accommodate some of them
456 so I don't see anything wrong with it.

457
458 Pete Hallenbeck: We have the full spectrum of the developers would love a two month process and a lot of citizens
459 would like a nine month process. What you're talking about with additional meetings, I know Commissioner Jacobs
460 was concerned that if you put additional public hearings on the normal Commissioner calendar, that's where the
461 crystal ball for the no-brainers comes in. You would hate to put, for example, that solar project on the end of a
462 budget meeting cause it would take too long, you really won't be doing the citizens any service, everybody would be
463 tired by the time it was midnight and probably wouldn't accomplish what you wanted. If you know, that crystal ball,
464 that this was going to be a 30 minute with no problem.

465
466 Herman Staats: Pete, so I understand correctly, the process that is on the white board now, is what we currently
467 use?

468
469 Pete Hallenbeck: Correct.

470
471 Herman Staats: Am I understanding you to say that we should have an additional Planning Board meeting with the
472 public and if so where in that process do you propose to put it?

473
474 Pete Hallenbeck: The question is the first item, these quarterly public hearing are on a certain schedule but we meet
475 every month. There's an opportunity to have that 45 day notice and have people come to a Planning Board meeting
476 and get citizen feedback quicker and then that feedback can be presented at the next available quarterly public
477 hearing it is unlikely that the Commissioners would decide at that time but that's where the no-brainer, crystal ball
478 comes in. It is far more likely that they will take that citizen input and kick it back to the Planning Board. We would
479 also be at that meeting, however the carrot and stick approach the Commissioners work out for getting us there.

480
481 Lisa Stuckey: So if I'm a citizen and I am bringing something forward, you're suggesting that there be a public
482 hearing in front of the Planning Board and then a public hearing in front of the Board of County Commissioners and
483 then it comes back to the Planning Board.

484

485 Craig Benedict: Maybe it doesn't have to go here afterwards. There are differences between the legislative and

486

487 Lisa Stuckey: But wait, because they were saying they wanted to give people a third or fourth opportunity to speak
488 without question when it came back, as a former member of the school board, every time you hold a public hearing,
489 you will get people to come and the more anxious they are about the outcome, the more they will come and they the
490 longer they will talk. It is just a lot of time. I am not passing judgment on whether or not they should be allowed to,
491 it's just a tremendous amount of time for the boards.

492

493 Craig Benedict: There could be different processes for legislative versus quasi-judicial. The reason we have a
494 process now to just have written testimony after this public hearing is because you're trying to set a point in time
495 where the record is closed, let's make a decision, and if we keep on opening things up very late in the process then it
496 doesn't end. That was part of the reason, especially for quasi-judicial matters, for legislative matters, the
497 Commissioners can choose to let them hold it in three minutes, don't repeat what we've heard here. They can
498 diplomatically say that.

499

500 Lisa Stuckey: It won't work.

501

502 Craig Benedict: Also it shows in the agenda package that the Commissioners, when they have this public hearing
503 over here, they can do three things; they could close the public hearing, this is what we are suggesting as potential
504 options. They could close the public hearing this night and they can set a date to make a formal vote on it, or if it is
505 contentious they could send it back to the Planning Board to return then for a date certain, or one that has never
506 worked well in the past is they can actually decide that night, close the public hearing and say we have enough
507 testimony to decide. That has always been a lot for them but over the many years there's been a few where they
508 thought that were very simple, one was actually a school site for the Orange County school that was an SUP and
509 they needed to get it built and they wanted to approve it there but the process didn't allow them to do that at that
510 time, to vote the same night. It had to go back.

511

512 Bryant Warren: So you're talking about on the public hearing that is joint now it will not be a joint public hearing, it
513 would be just the Commissioners?

514

515 Craig Benedict: That would be just the Commissioners and as the Chair said, we would suggest the Planning Board
516 attend here or they could watch it on Granicus or they could watch a video of it or they could look at the minutes.
517 *(referring to board)* This would not be a formal, this isn't the formal public hearing here, it's just a point where we can
518 let people know in a neighborhood information meeting that the Planning Board is going to be hearing this item. It is
519 what's called a Planning Board hearing, formal hearing will always stay with the Commissioners that's what state
520 laws says.

521

522 Bryant Warren: I don't think you're going to get as many people showing up for just a public hearing with the
523 Planning Board as you're going to get to show up for the Commissioners and Planning Board combined.

524

525 Craig Benedict: It's true, the Planning Board and staff may be able to answer some questions here at this pre-
526 meeting. At this crystal ball meeting. Even at this point here, we're going to be educating the public because that's
527 what the Commissioners suggested. Let them know about what process we're going through, is it legislative, is it
528 quasi-judicial let them know what levels of input there are, is it going to be formal expert or can it be anecdotal i.e.,
529 we don't think that fits the neighborhood. We can do a lot of education here, having something early where the public
530 can be invited. It probably would be a lot more attendance at Planning Board meetings than you've had in the past.
531 It still goes to the formal public hearing, let's call that the legal public hearing. Then the Commissioners have the
532 opportunity to decide at that point to bounce it back or to themselves two weeks hence.

533

534 Perdita Holtz: This Planning Board meeting where he crossed off formal review, the Planning Board recommendation
535 meeting, where there would be notices that actually went out and the property would get posted with a sign to let
536 people know that the Planning Board meeting was happening, it would not be a formal public hearing, it would just be
537 a Planning Board meeting with changing the way we notify the public about Planning Board meetings so that people
538 would know the Planning Board meeting was happening, they would be able to come and speak, it wouldn't have to

539 be written comments only and at the conclusion of that meeting the Planning Board would make a recommendation
 540 on whether they thought the application should be approved or not, on legislative items. Craig is a little bit mixing
 541 legislative and quasi-judicial together. Then the item would go to public hearing with the Planning Board
 542 recommendation. At the public hearing the BOCC could decide, man there's so many people here that maybe didn't
 543 talk at the Planning Board meeting; we really should kick it back to the Planning Board for them to consider this other
 544 information that came out at the public hearing. Or, the BOCC could decide this is one of those no-brainers, the
 545 people who have been on the Planning Board before will remember the discussion about no-brainers, this is a no-
 546 brainer, we can close the public hearing tonight and we can just vote on it, or they can say, well, you know the
 547 Planning Board gave us a recommendation, nothing major has come out but I want to mull this over more and the
 548 BOCC can say let's schedule it for a later meeting.

549

550 *Loss of recording device/full memory- approximate 7 to 9 minutes lost.*

551 *[There was some discussion about how notices about the Planning Board meeting would be sent via first class mail*
 552 *to adjacent property owners and a sign would be posted on the affected property, in the case of map amendments].*

553

554 Pete Hallenbeck: It is important that the notifications be a blend of the dry legal requirements of notification and a
 555 nice human readable, ok guys here's how it's going to work- we're going to have to this meeting here's what you can
 556 do, this is an opportunity for you, so it explains the process and people know what is going on.

557

558 Tony Blake: I have a couple of comments; I don't know how much power we really have. I think we're maybe
 559 assuming that we have more power than we do here. We are really looking at the UDO and deciding whether or not
 560 a project meets the criteria of the UDO, we can't just all of a sudden say, no we don't like that, and the second part of
 561 it is, I think we're all here to represent some part of the County. I represent Bingham because I live there and
 562 because I have other contacts in the community and it seems to me that we should be part of the notification list for
 563 any public information session in our area of representation. We should be at least as strongly encouraged to attend
 564 that public information meeting on behalf of the Planning Board and all the Planning Board members be encouraged
 565 to attend any public information meeting as that somewhat cloudy crystal because I think you can tell from a public
 566 information meeting how many people show up as to what kind of a response you're going to get and what the real
 567 concerns and questions are that need to be addressed up front. I don't really understand the quasi-judicial role we
 568 have, I understand that we stand up there and give testimony but if our power is limited to interpreting the UDO and
 569 trying make whatever changes proposed fits within the UDO and it either does or it doesn't and staff is far more
 570 versed in the UDO than I am. I find their recommendations are pretty bang on. All of what I have to say in a quasi-
 571 judicial way is hearsay, right?

572

573 Pete Hallenbeck: The role of the Planning Board is this oversight, are we meeting the requirements of the UDO.
 574 Yes, you're right, but that's a level of detail you have to have. I would point out, though, that there's also a document
 575 called the Comprehensive Plan. If the UDO is the rules, the left brain, the Comprehensive Plan is the heart and soul,
 576 it's the right brain part of it. There are times when we've reviewed things and it's met all of the requirements but then
 577 you'll find something in the Comprehensive Plan that's not right and I think it's not power per say but it's a very valid
 578 role of the Board is to point this out. An example of that is the Comprehensive Plan encourages that all subdivisions
 579 have sidewalks and yet every time we run into it there is no money for sidewalks and DOT doesn't want it. There is a
 580 conflict there and we don't have power over that but we can certainly point it out and I think that's also true with
 581 representing the areas you're from.

582

583 Tony Blake: Yeah, but I don't find that to be quasi-judicial in essence. You can point it out in a quasi-judicial hearing
 584 but it's not some...

585

586 Pete Hallenbeck: Quasi-judicial is such a different beast because people get sworn in and there's testimony. It really
 587 changes the game a lot and our role in quasi-judicial is very strict.

588

589 Lisa Stuckey: We're supposed to be the judge in a quasi-judicial, aren't we?

590

591 James Bryan: In quasi-judicial, it's the governing board- the deciding body that is the judge. From a legal
 592 perspective, for planning boards' involvement, it's dangerous. Especially, how we have it where you close the public

593 hearing and then you have the statements. I think that's right before appeal, for a number of reasons, I don't know if
594 the Board really wants to get into all of that but my recommendation would be that because of all of the legal
595 concerns with all that let one board handle it, the Board of Adjustment, that's all they do and then you also have a
596 corollary to that because when the public goes to these meetings and they want to know, look I'm a neighbor and I'm
597 against this, quasi-judicial they can't say anything. That's objectionable, you're not supposed to allow them to go and
598 speak to that. So if you have one board where they know, oh Board of Adjustment that's when I have to have my
599 expert there to testify and any time you go before the Board of County Commissioners or the Planning Board, that's
600 when I'm allowed to give my opinion because they do policy and legislative matters. It's clear for the public.

601

602 Lisa Stuckey: So, the quasi-judicial, and I guess the mix will move out of the Planning Board?

603

604 James Bryan: That would be my recommendation.

605

606 Perdita Holtz: Well, the legislative part of the mix would not but we need to figure out what we want to do for
607 legislative versus quasi-judicial before we tackle that funny beast of the mix.

608

609 Lisa Stuckey: But quasi-judicial is leaving us.

610

611 Bonnie Hammersley: No, as the County Manager I have to speak. The issue tonight is some kind of
612 recommendation from this Board to the County Board of Commissioners, they make the final determination. One
613 thing I would want to add thought as you all talked about your power or your worth, this Board is a highly valued
614 board in county government and is in all the counties I've been in. The County Board of Commissioners depend on
615 you greatly for your recommendations and what you do and so I want you for that but no determination has been
616 made on what is going to happen. That's what this discussion is about. It would be a recommendation to the County
617 Commissioners and whether the Commissioners would agree with that, they would make the final determination and
618 I don't know what that is.

619

620 Maxecine Mitchell: I'm sitting here thinking I want to share in my own way, when I decided to be on this Planning
621 Board, I came to represent my community. I don't feel comfortable in any decision we make, I have to be there to
622 hear what the people have to say. I sit here every month and hear the staff from their perspective and I get a good
623 understanding on their challenges, what they are trying to do as a whole, I then like to come to the public hearing
624 meeting and I cautiously listen to the people. Within the decisions we make to the UDO and the Comprehensive
625 Plan when we have a chance that helps me to figure out if it a good thing for the community. Then my
626 recommendation that I give to the County Board of Commissioners, I'm looking at it from the community perspective
627 because I have to live here. You may not live in my neighborhood, in my area, and I don't want rules making it hard
628 for me to enjoy the life here in Orange County. I take this very seriously so I don't want whatever we do, I want to
629 hear from the public, as well as coming here every month and hearing from the Planning Board and hearing the
630 County Commissioners and what they want and make it all work the best we possibly can. I understand the legal
631 process but for me that's top concern because we have to live here in Orange County so we have to keep it where
632 people can enjoy the County and not feel like they want to move to Durham or Alamance County, that's the way I see
633 it and I want to find the best way to say that in the decisions we make. I try my best to show up to the public hearings
634 and I go to work at 12 at night and the night of that long meeting, I left that meeting and went right to work because
635 that's my commitment to the citizens of Orange County to be there. I think that staff and the Board of Commissioners
636 get benefit from it.

637

638 Pete Hallenbeck: One good thing coming from this discussion is that it's an interesting opportunity for everyone to
639 think about the role of the Planning Board and I think we are all basically on the same page. If anyone has another
640 rule they think is critical.

641

642 Paul Guthrie: I mentioned one and that is the fact that we provide the Board of Commissioners with a screen with
643 which they can filter through information as they deal with some very tough issues.

644

645 Pete Hallenbeck: Yes, with a blend of the feedback and the community and public input. Also I think there is
 646 representation of the areas and there is also that everybody here has a diverse skill set and drawing on both of those
 647 really helps with these opinions that we can give the Commissioners.

648
 649 Tony Blake: Is it safe to say that any quasi-judicial process is preceded by a legislative?

650
 651 Perdita Holtz: In quasi-judicial matters it depends on how you're zoned on whether you have to get a Special Use
 652 Permit and so at some point zoning was applied to the property but you can't say that it precedes it by a month or a
 653 year of something like that.

654
 655 Tony Blake: No, what I'm saying is the maybe when we run up against this situation where we think, maybe the
 656 County is being too heavy handed but we don't really have the power to do anything but interpret the facts against
 657 the UDO and it either is or it isn't, right? Michael is the oracle on that, we have a handoff or a way to pass along to a
 658 more powerful body, the Board of Adjustment or the Board of Commissioners whoever it is and say here's our
 659 legislative view to take into your quasi-judicial. I don't know.

660
 661 Perdita Holtz: No, it's not for most of the types of Special Use Permits that we see. The only time that there's a
 662 legislative component is if there is a rezoning associated with also needing a Special Use Permit and that happens in
 663 the case of some subdivisions when you get larger subdivisions in the rural area.

664
 665 Tony Blake: Yeah, I was thinking of that dog kennel up on 70 where they weren't really in compliance. They wanted
 666 to do something, they couldn't do something without being in compliance first and then being in compliance was too
 667 expensive. It really got dicey and at the end of the day, basically, we were told we couldn't do anything outside of the
 668 UDO but at the same time it didn't qualify for the Board of Adjustment and so there was this limbo thing and then it
 669 was thrown over to the County Commissioners who changed the decision.

670
 671 Perdita Holtz: Yes, that really was a messy one.

672
 673 Tony Blake: That's the kind of situation I'm thinking of that it just really seems like we could be more graceful.
 674 Changing gears here if we got in early at the community information meetings and tried to make that at least as
 675 important as attending the quarterly public hearings for the representatives of that group to bring back to the Planning
 676 Board I think that would go a long way towards your crystal ball.

677
 678 Pete Hallenbeck: Two things here, on page 72 there's that summary and that Perdita came up with and 88% of the
 679 time things are legislative and 3% of the time it is a mix. You never want to ignore a minority of cases but you also
 680 don't want to optimize the system on one low probability parameter. Also, Tony, I wanted to comment and this will
 681 sort of speak to what Maxecine was talking about, I like the idea that you notify Planning Board members if there is
 682 neighborhood information meeting in their district. I think that's a great thing to do.

683
 684 Michael Harvey: With all due respect, I think that the policy should be that every Planning Board member gets
 685 notified and they can choose to attend if they can or cannot. That way everybody benefits. As neighborhood
 686 meetings are scheduled the Planning Board gets notified and every member has an opportunity to attend.

687
 688 Tony Blake: I would agree.

689
 690 Michael Harvey: The reason I saying it that way is if Tony Blake can't show up, maybe other members can and the
 691 fact that Tony was not able to show up on a given evening. I think if you're asking staff to make sure you're notified
 692 of every NIM then we can just do that as a policy.

693
 694 Pete Hallenbeck: You're right on the money, that's more functional and easier to implement.

695
 696 Paul Guthrie: I have a question for those of us who live in the County but are under Chapel Hill planning
 697 management, how do we get notified? Because most of the planning of what that has done is under Chapel Hill's
 698 Planning Board. There was a point in time in the past the County Commissioners made a recommendation for

699 appointment to the Chapel Hill Planning Board, from the area in which I live in, and the first thing that happened, it
700 happened to be me as the nominee, and the first thing that happened was Chapel Hill Planning Board and the
701 Council decided to eliminate that position so I think that we need to talk about those fringe areas that are in the
702 extraterritorial jurisdiction and see if we can get the process working there too. I'm in the southeast corner of the
703 County and it is going to be one of the big growth areas in a very small area over the next few years, I'm afraid, and
704 there is a lot going on but you usually have to read about it in the newspaper to find out about it.

705
706 Perdita Holtz: So you're suggesting that we work with Chapel Hill Planning's Department for them to overhaul their
707 practices on how they notify?

708
709 Paul Guthrie: No, I'm just saying it would be nice to know when those things are going on or how many newspapers I
710 need to subscribe to.

711
712 Perdita Holtz: It's Chapel Hill's planning jurisdiction and we don't necessarily always know what is going on.

713
714 Pete Hallenbeck: I think the key thing is, you being in Chapel Hill, if there's any neighborhood information meetings,
715 you'll find out about it in the County because Michael's suggestion was right on the money. It's easy to implement
716 and everybody's informed.

717
718 Buddy Hartley: I feel like the process we have now is working. The question is can we get a quorum at the public
719 hearing. That's the question. The process is working, staff is doing their job. Staff is giving us the information for
720 whatever is taking place and we are recommending to the Board of County Commissioners, whether they like our
721 recommendation or not, they do what they want to do. So, I do like the fact of possibly having the public being able
722 to come to us before the public hearing but then the question is are we going to have a quorum at the public hearing.
723 I don't see a big problem with that we just need to let staff know in advance if we cannot make that meeting so they
724 know. We should be able to get a quorum at the public hearing.

725
726 Perdita Holtz: Well it's really far in advance because the legal ad gets published and notices get sent out, the legal
727 ad is due to the paper like three weeks before the public hearing.

728
729 Buddy Hartley: So we want to be able to have a quorum at the public hearing, we either do or we don't.

730
731 Lisa Stuckey: Aside from the time somebody was late, and I was one of them one time, it's been very close. There
732 were other meetings, I can think of two others, maybe three, where we were waiting for people to come.

733
734 Maxecine Mitchell: But I usually get an email and if not an email somebody calls. Does not everybody get that same
735 thing as a reminder?

736
737 Perdita Holtz: Yes, Tina sends out emails asking about quorum.

738
739 Maxecine Mitchell: I have it on my calendar but when I get the email I remember, that's right I do have a public
740 hearing.

741
742 Buddy Hartley: And she does call.

743
744 Maxecine Mitchell: Yes, if she doesn't hear from me, she'll call. I just wondering, is that not working for everybody to
745 remember that there's a public hearing?

746
747 Perdita Holtz: Often we call because enough people have said no, and so it's getting very close on whether we're
748 going to have quorum and so now we're scrambling to get on the phone with people who haven't responded to see if
749 they can show up or not.

750
751 Pete Hallenbeck: You can put a lot of procedures in place but the bottom line is we had a lot of trouble and if it
752 happens again something has got to change. I would ask, it's not clear to me, what the value of having a true joint

753 meeting where the Planning Board has a quorum versus requiring Planning Board members to attend and if you
 754 have bad attendance then the Commissioners can do something about it, like say thank you for your service but
 755 you're not cutting it. We're going to be there and we're going to hear the public hearing input. The commissioners
 756 certainly have the ability while we're there, even if it's not a joint meeting, to ask if there are any comments from the
 757 Planning Board. It's well within their purview so I just don't see that dropping the official joint with a quorum
 758 requirement, I don't think that will change the process a whole lot. What it will do is not hold up a meeting where you
 759 have 100 citizens there.

760
 761 Craig Benedict: From what I'm hearing from the discussion, there seems to be somewhat of a role of the Board in a
 762 differentiation between how they act on a legislative matter, where they can hear opinions left and right, they can
 763 hear the community and they can see the site versus the quasi-judicial nature where your role is more structured.
 764 Not that we are making any determinations tonight, but maybe when we do this interim report, maybe there are two
 765 different processes that we follow for legislative matters versus a quasi-judicial and right now they're clustered
 766 together and maybe we should take a look at the role of the Board on a legislative matter and how we get input
 767 versus a quasi-judicial matter follow a different tract. Does that sound reasonable?

768
 769 Pete Hallenbeck: In general, what I'm hearing, and I realize there is variation everywhere, is everybody agrees there
 770 is great value in having the Planning Board at the quarterly public hearing. The challenge is if you don't have a
 771 quorum, we don't want that to derail anything. I am also hearing people are happy with this concept that the Planning
 772 Board can take citizen input so we can get that sooner and hopefully that combined with the 45 days will just make
 773 everything go better. Most of what we've been talking about is for the legislative processes which are 88% of the
 774 time. The quasi-judicial is a different process and we need to work on knowing what our role is in that. That may be
 775 something staff and the attorney can work on to educate us on that a little bit better but again 88% of the time it is
 776 legislative and it would be great to also notify all Planning Board member of any neighborhood information meeting
 777 that is going on so we have a chance to get out there and see what is going on. Those are the main points I'm
 778 pulling out. Is there anything major anyone can think of?

779
 780 Laura Nicholson: So, is the idea that we will have quorum and we'll all just internally say we are going to be better
 781 about getting quorum or was there some barrier that maybe some of us that are new don't understand why we
 782 couldn't get a quorum before?

783
 784 Pete Hallenbeck: My personal opinion is to drop the quorum requirement because we've blown it two or three times
 785 and if we blow it one more time, it is just, it's getting to the point it's not excusable and that's also based on the fact
 786 that if we can just impress upon people how important it is to be there, it's not clear what the quorum is doing and the
 787 Commissioners can still ask Planning Board members who are present for comments and input.

788
 789 Laura Nicholson: It's just funny that you're saying we need to make sure that we all know that it's really important to
 790 be there but it's not a requirement. If it's really important to be there it should be a requirement.

791
 792 Pete Hallenbeck: It should but then when you don't have it, we were lucky that we had only a 30 minute delay. What
 793 would happen if you had a meeting and you didn't have quorum and you tell all these people I'm sorry we just don't
 794 have the people, we'll try this again in three months.

795
 796 Laura Nicholson: I agree I just don't see how we can't have a quorum.

797
 798 Lisa Stuckey: Why don't we ask staff, what's the problem? Do we know why people haven't shown up? What's
 799 been the issue?

800
 801 Perdita Holtz: I think it just depends on the personalities that you have on the Board. How seriously people take their
 802 position.

803
 804 Tina Love: There has never been a time when staff went to the meeting without a quorum. I have never left work at
 805 the end of the day that staff didn't have a quorum. If I haven't heard from you, I get on the phone and I call you and I
 806 keep on calling until I reach you, and I'm sorry about that, but we have to ensure there is a quorum. Then staff gets

807 to the meeting and for whatever reason, and things do come up last minute but there just isn't a quorum. I don't
808 know what other process we can do to fix that.

809
810 Tony Blake: Send the Orange bus.

811
812 Maxecine Mitchell: For me, I know we get a copy of the calendar every month, I put it on my personal calendar and
813 an alarm goes off and I say hey you've got a meeting. I don't care if it's an hour before, I'll throw on my clothes and
814 get up here because I've made up in my mind I'm committed and I know it's part of my responsibility on the Board. If
815 something comes up, an emergency, the first thing I try to do, I'm calling from South Carolina when my sister passed
816 away to say she passed I can't make it. Things like that, you can't help but if you're here you should be making it to
817 the meeting. I think it doesn't have to be a rule we just have to be committed and show up unless it is out of our
818 control.

819
820 Laura Nicholson: I just think if the quorum isn't a rule then we're making ourselves seem less important. Like we
821 can't make it to a quorum, we've already embarrassed ourselves by not being there so let's just not hold ourselves
822 accountable and I think we should hold ourselves accountable by saying there has to be a quorum.

823
824 Pete Hallenbeck: If the quorum requirement were effective, we would never have not had a quorum and I see this as
825 the price of failure of value of success and the price of failure having the quorum is we hold up the public. The value
826 of success is we have a quorum, the meeting starts but after that I don't see a lot of difference because the
827 Commissioners can still ask our opinion and we are still there to get input. I think that's why I come down on the side
828 of dropping the quorum requirement. It's just that simple weighing of the price of failure and the value of success. I
829 don't see any difference in the outcome.

830
831 Tony Blake: What's the reason for the joint meeting?

832
833 Pete Hallenbeck: I think Laura's right on the money, it does bring the Planning Board out, it makes it part of the
834 process, it give value to it, adds importance to it. By the same reason if we don't show up it makes it look like the
835 Planning Board isn't important it doesn't care and the people are not there and you're holding up the citizens.

836
837 Laura Nicholson: Is it possible that it was a communication issue, so for example, I knew I was going to be ten
838 minutes late so I emailed Tina but I don't know if she got my email so maybe it's that we need cell phone numbers of
839 staff so that we can call people and say hey, I'm going to be late or this came up or maybe it's just because I'm new.

840
841 Tina Love: One other thing we need is alternative numbers, cell phone numbers for Planning Board.

842
843 Laura Nicholson: So I see it as a communication issue that is holding up the quorum process and if we just over
844 communicate rather than under communicate it will solve itself.

845
846 Perdita Holtz: It really wasn't the issue of someone being ten minutes late and calling. It was people having full
847 calendars and just not making it to the meeting.

848
849 Laura Nicholson: And they don't know that in advance?

850
851 Perdita Holtz: I don't want to speculate on when people know in advance.

852
853 Laura Nicholson: I'm new so I can't comment but to me it seems simple you're supposed to be there, you're there
854 and if you're not you tell somebody.

855
856 Perdita Holtz: That's a wonderful outlook.

857
858 Pete Hallenbeck: Sometimes just the ebb and flow of life just doesn't work out.

859

860 Buddy Hartley: Things come up and when things come up, you contact staff and you let them know, I can't make this
861 meeting for whatever reason. Everyone won't be able to always make meetings and if that happened with 3 or 4
862 people for the same meeting, you might not have a quorum.

863
864 Lisa Stuckey: It's not a regularly scheduled meeting for us, it's an odd meeting and I think that's part of the problem
865 and it's on a Monday instead of Wednesday when we normally meet. Honestly when you're talking about going to
866 more meeting I wonder how many Planning Board members can really go to those neighborhood meetings.

867
868 Perdita Holtz: I'm a little fuzzy on a certain aspect of what you've discussed tonight; I hear that you want to attend
869 the public hearing whether those are quorumed or not quorumed that you want to attend to hear the public.

870
871 Lisa Stuckey: But if they change it and they're doing it six or eight times a year, are we really committed to that?
872 I would be extremely skeptical.

873
874 Perdita Holtz: That is a question at this time, I don't really think they are going to be changing the frequency but
875 that's just my feeling from what we've heard.

876
877 Bonnie Hammersley: I will support Perdita on that. One of the things we have is for the November 24th quarterly
878 public hearing we don't have any agenda items and so it's difficult to try to justify adding more meetings so right now I
879 don't see that being the will of the Board to change it.

880
881 Perdita Holtz: I hear that you want to attend the public hearing what I'm fuzzy on is I've also heard that you want to
882 do public meeting where the public can come to the Planning Board meeting and comment beforehand. There would
883 be an official agenda item, we would send out notices to any affected property owners and they could come and talk
884 with you. At that point, would you all make a recommendation at that Planning Board meeting and then attend the
885 public hearing or do you still want to wait to make the recommendation after the public hearing? We're just talking
886 about legislative not quasi-judicial for this. What I am trying to clear on, because I have to write something up for the
887 BOCC, is you want to attend the public hearing and you also want to have a pre-meeting where the public can come
888 and attend. If it involved a piece of property the public is going to get mailed notices and we are going to put notices/
889 a sign saying come to the Planning Board meeting and let them know what you think. At that meeting will you all
890 make a recommendation prior to the public hearing or do you want to wait until after the public hearing to make a
891 recommendation?

892
893 Pete Hallenbeck: I think we can no more guarantee we can make a recommendation than the Commissioners can
894 guarantee they can make a decision at the quarterly public hearing much as happened with the solar project. I think
895 the best the Planning Board can do is to provide feedback based on our knowledge on the communities we come
896 from and maybe comment on what people say and yes there is a bit of a challenge there because there may be time
897 when all we can do is except that input and frankly there won't be a whole lot we can say that is terribly intelligent
898 other than thank you for the input.

899
900 Perdita Holtz: So after the public hearing you want to make a recommendation still so my concern is that on
901 legislative items, that do not have a neighborhood information meeting, you are now adding an additional meeting
902 before the public hearing that is going to make the process longer. I want to make sure that.

903
904 Pete Hallenbeck: I don't think I was saying it that way.

905
906 Perdita Holtz: You're having a Planning Board meeting that we are going to send out notices.

907
908 Craig Benedict: We'll send out the letter out and decide.

909
910 Perdita Holtz: No, they're saying they don't want to decide, I know that is what we talked about two weeks ago but
911 this is not what's being talked about tonight. They want to wait to decide until after the public hearing.

912

913 Herman Staats: My own personal feeling about making a recommendation is what I said earlier, if you have
914 opportunity for public input but no one comes then yes we can make recommendations based on the written
915 guidelines but you still don't have public input. So the whole goal of us discussing this tonight was to increase and
916 have a better access to public input but if they don't come then we're not increasing public input. I thought this whole
917 process came up of how do we get more feedback from the public and how do we get them involved.

918
919 Perdita Holtz: That's one part of it.

920
921 Maxecine Mitchell: Right now, I'm going to go with leaving things the way they are right now.

922
923 Perdita Holtz: Increasing the public involvement, that's certainly one part of it Herman, about increasing the public
924 involvement however, the increasing of public involvement is really pertinent to quasi-judicial matters and so I am
925 trying to nail down more of what you are all thinking about the legislative matters and we're going to have to tackle
926 quasi-judicial at some other time.

927
928 Pete Hallenbeck: Yes, I agree, just talking legislative and I think I agree with Herman that if we can make a
929 recommendation or decision, we will but there may be circumstances where we just can't.

930
931 Michael Harvey: Is the concern that not enough citizens are interested in showing up and you're going to make a
932 recommendation in a vacuum.

933
934 Pete Hallenbeck: No, if nobody shows up and they have met all the requirements for what they are trying to do and it
935 meets the UDO, I say we make a decision and say yes, we're all for this. I think the times where we wouldn't make a
936 decision would be like the solar array.

937
938 Paul Guthrie: It's not judicial, we're not encumbered on that solution that we have something, nobody shows up, we
939 have a question about it, we could send that to the Commissioners and it could be incorporated in the call for the
940 public hearing.

941
942 Pete Hallenbeck: Yes, all that is possible and again it's part of being an advisory board there

943
944 Tony Blake: Let me just suggest just opposing the whole thing for just a second here. Why not add, and I think other
945 boards have this thing that they have sort of a County Commissioner liaison. Why not require that liaison to be here
946 for quasi-judicial, no quasi-judicial right? Then they can carry that feedback back to the other County
947 Commissioners.

948
949 Pete Hallenbeck: We're going to stick with the legislative, quasi-judicial is a very strict process.

950
951 Perdita Holtz: There are reasons there's not a BOCC liaison for the Planning Board and I don't think there is going to
952 be.

953
954 Pete Hallenbeck: I think the changes we're talking about is we have the 45 days, we're just saying let the public
955 come and present input either in writing or verbally at the Planning Board meeting that's part of the notification they
956 get. We will discuss it there will be times when we can make a recommendation and there will be times when we'll
957 just throw our hands up and there will probably be times when we go, we don't really want to get near this thing and
958 we kick it back to the Commissioners.

959
960 Paul Guthrie: Would that be mandatory or just advisory? Could we simply say you may wish to come to a Planning
961 Board meeting prior to the public hearing?

962
963 Pete Hallenbeck: Yes, but part of this is to explain the process, is that exact language. You're not required but if you
964 care to this is great as it gives us better input sooner, the Commissioners read your feedback before the quarterly
965 public hearing. That explanation should enough to let a citizen realize how the process works.

966

967 Paul Guthrie: Probably a good idea.

968
969 Laura Nicholson: To me there is just some things that seem really cut and dried and there are some things that are
970 really squishy. Is there a way we can delineate that and say these things we agree on and bring a recommendation
971 on these things and these things we still want to talk about more, is that a possibility?

972
973 Pete Hallenbeck: Part of why I tried to say it's important to be at the QPH not wild about the quorum and you're
974 comments you really think the quorum will help. The Planning Board taking citizen input, it sounds like everybody is
975 good with that and more input is good. We realize this is legislative that is 88% of what we see, all Planning Board
976 members get notification of any neighborhood information meetings and we realize that the quasi-judicial is a
977 problem for another day we need more education as there are very strict rules. That's ok because we've just dealt
978 with 88% of what we deal with and I would say that's the summation of what we are putting before the
979 Commissioners along with this process.

980
981 Craig Benedict: Chair, based on the direction the Commissioners gave the manager and the attorney and staff is this
982 interim report is not going to make decision so, that interim report will say probably some things are easier to achieve
983 and some things are a little bit harder so I think in essence we are going to get some ideas on which way we can
984 move with it. Where's there's some clarity and which areas might need a little more time. That's why they said the
985 November 6th meeting wouldn't have everything done by then. We'll let them know where we are in the process that
986 we were getting consensus on some areas and we are also determining that there are differences, clear differences,
987 on how the Board's role is for quasi-judicial versus legislative and how we get community input that might take a little
988 longer.

989
990 Pete Hallenbeck: That's also why we're not going to vote tonight on this and what we recommend. We've talked
991 they get to sludge through it and see what we're thinking and it goes on from there. Ok, the last item on the agenda,
992 I'll entertain a motion to adjourn

993
994

995 **AGENDA ITEM 11: COMMITTEE/ADVISORY BOARD REPORTS:**
996 a. Board of Adjustment

997
998

999 **AGENDA ITEM 12: ADJOURNMENT:**

1000

1001 **MOTION** by Bryant Warren to adjourn. Seconded by Buddy Hartley.

1002 **VOTE: UNANIMOUS**

1003

1004

1005 *Email from Lydia Wegman:*

1006

1007 **From:** Lydia Wegman [mailto:lnwegman@gmail.com]

1008 **Sent:** Wednesday, October 08, 2014 2:12 PM

1009 **To:** Perdita Holtz

1010 **Subject:** Re: October Planning Board Materials

1011

1012 Hi Perdita,

1013

1014 Thanks for that helpful explanation of the status of the recommendations on the public hearing process. I am very
1015 sorry to be missing the discussion tonight. As a new member of the Board, I feel I would benefit from hearing the
1016 views of the folks who have served on the Board longer than I. I do, however, have two thoughts to offer, which are
1017 laid out in the next paragraph. In addition to that, I plan to read the minutes of tonight's discussion and then offer my
1018 thoughts on the conclusions reached, if any. I know this is not the best way to engage in discussion, but given that I
1019 am out of town, I think it's the best I can do.

1020

1021 Here are my views on two issues for tonight's meeting: First, I do not think the Board of Adjustment should handle
1022 Class A SUPs. I think those should continue to come to the BOCC and to the Planning Board for a recommendation
1023 to the BOCC. I feel that decisions on these SUPs concern the way in which the county is using the precious land
1024 within its boundaries and those decisions should be left to the elected, not appointed, officials. I think it's important
1025 for the Planning Board to offer its views to the BOCC. My second thought is that the the Planning Board should
1026 make its recommendations to the BOCC after the conclusion of the public hearing, as is done now. I think the
1027 Planning Board should be required to attend the public hearing and am not sure why there has been such a problem
1028 with attendance at the quarterly hearings. Is there really such a problem? If so, I suggest that the Planning Board be
1029 asked to solve it. I don't think the solution is to cut the Board out of that process. But even if the Board is not
1030 required to attend the public hearing, it should be required to listen to the hearing before offering its views to the
1031 BOCC. The information at a public hearing is in my view essential to helping the Board thoughtfully consider what
1032 recommendation to make.

1033
1034 I hope these views can be considered at tonight's meeting. Thanks very much. I look forward to hearing about the
1035 discussion at the meeting.

1036
1037 Lydia

1038
1039
1040
1041
1042

**ORANGE COUNTY
PLANNING BOARD
AGENDA ITEM ABSTRACT**
Meeting Date: November 5, 2013

**Action Agenda
Item No.** 7

SUBJECT: Planning Board Annual Report / Work Plan for County Commissioners' Annual Planning Retreat

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

1. Annual Report / Work Plan Form

INFORMATION CONTACT:

Craig Benedict, 245-2592

Perdita Holtz, 245-2578

PURPOSE: Provide an annual report and work plan input to the Board of County Commissioners (BOCC) in preparation for its annual planning retreat.

BACKGROUND: Each year the County Clerk's Office collects information from each of the County's advisory boards to prepare a report for the annual BOCC planning retreat in January. The annual report informs the BOCC of the past year's activities of advisory boards/commissions, as well as proposed activities for the upcoming year.

Staff and advisory boards are asked to collaborate to complete the form that has been provided by the Clerk's Office and return by December 5. Proposed activities are to be consistent with the goals of the BOCC.

The Annual Report / Work Plan form (Attachment 1) has been completed by staff for Planning Board review and comment. Some topics of prime interest include:

1. Updates to housing and senior housing facilities to address new concepts.
2. Update a few zoning categories to address trends in office, research and development, and applied manufacturing.
3. Land use protection of economic development zones by monitoring negative land use activities or regulating incompatible land uses.

These topics are accented on the final two pages of Attachment 1.

The Planning Board is involved with approximately 40 - 60% of the work Planning Department staff is responsible for (the percentage varies by year, depending on specific work being completed in a given year). For the upcoming year, Planning staff will be working on some items for which other advisory boards have primary responsibility. Examples of these tasks are transit issues, transportation planning, and economic development issues (not related to the

UDO) in partnership with the Economic Development Department. Some work items the Planning staff is responsible for do not go to an advisory board for a recommendation (for example, water and sewer engineering and the annual report related to the Schools Adequate Public Facilities ordinance [SAPFO]).

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

1. Review the attached document prior to the meeting.
2. Discuss members' ideas about any additional activities to be worked on in 2015.
3. Either:
 - a. Approve the Annual Report and Work Plan Form in Attachment 1, or
 - b. Direct staff to incorporate the results of any discussion into the Annual Report / Work Plan form and bring the final form back to the December 3, 2014 Planning Board meeting for approval.

NAME OF BOARD/COMMISSION: Planning Board

Report Period: 2014 calendar year for annual report; 2015 calendar year for work plan

**ORANGE COUNTY ADVISORY BOARDS AND COMMISSIONS
ANNUAL REPORT/ WORK PLAN FOR THE COUNTY COMMISSIONERS**

The Board of Commissioners welcomes input from various advisory boards and commissions in preparation for its annual planning retreat. Please complete the following information, limited to the front and back of this form. Other background materials may be provided as a supplement to, but not as a substitute for, this form.

Board/Commission Name: **Planning Board**

Person to address the BOCC at work session- if applicable- and contact information:

Pete Hallenbeck, Chair, (919) 732-6551, pete@eflandfd.org

(please note the Chair may change in January when the Planning Board holds elections – the Chair at the time the work session is held will address the BOCC)

Primary County Staff Contact: **Craig Benedict, Planning Director**; secondary contact: **Perdita Holtz, Planner III (Planning Systems Coordinator)**

How many times per month does this board/commission meet, including any special meetings and sub-committee meetings? **On average, twice per month (12 regular meetings + 4 Quarterly Public Hearings + special or sub-committee meetings).**

Brief Statement of Board/Commission's Assigned Charge and Responsibilities.

Under the authority of NC General Statute, the BOCC created the Planning Board to embark upon a continuing planning program, including but not limited to the preparation and maintenance of a Comprehensive Plan for Orange County, in protection of the public health, safety, and general welfare of present and future residents, landowners and visitors. The duties of the Planning Board are listed in Section 1.6.3 of the Unified Development Ordinance.

What are your Board/Commission's most important accomplishments?

Within last 2 years:

- **Annandale at Creekwood major subdivision preliminary plat.**
- **Triple Crown Farms major subdivision concept plan.**
- **UDO text amendment to require a neighborhood information meeting for governmental uses.**
- **UDO text amendment to establish a new conditional zoning district for Agricultural Support Enterprises and various accompanying changes to the text.**

More recently:

- **UDO text amendment to change standards related to home occupations.**
- **UDO, Comprehensive Plan & Zoning Atlas Amendments to adopt two new zoning overlay districts in Efland (denied by BOCC in Feb. 2013 and brought back to February 2014 quarterly public hearing).**
- **UDO text amendments related to the public hearing process.**
- **UDO text amendment to require a neighborhood information meeting prior to public hearings for Special Use Permit applications.**

- In 2014, two property-owner initiated applications for rezonings/text amendments were processed. The Planning Board reviewed these and issued a recommendation to the BOCC on each application.
- Comprehensive Plan Future Land Use Map and Zoning Atlas amendments related to the Hillsborough/Orange County Central Orange Coordinated Area – Joint Land Use Plan
- Pleasant Green Woods Phase IV major subdivision concept plan and preliminary plat.
- Triple Crown Farms major subdivision preliminary plat.
- Stroud’s Creek major subdivision concept plan and preliminary plat.
- Class A SUP for solar facility in Cheeks Township.
- Amendments to Joint Planning Land Use Plan & Agreement with Chapel Hill and Carrboro related to density clarifications, agricultural uses exempt from zoning regulations, and agricultural support enterprises.
- Reviewed and commented on the draft Parks & Recreation Master Plan.

List of Specific Tasks, Events, or Functions Performed or Sponsored Annually.

- **Monthly Planning Board meetings**
- **Quarterly Public Hearings (4)**
- **Ordinance Review Committee (ORC) meetings and special meetings as required**
- **Review applications for ordinance amendments, major subdivisions, and Class A special use permits and provide recommendations to the BOCC**
- **Develop and recommend policies, ordinances, administrative procedures and other means for carrying out plans**

Describe this board/commission’s activities/accomplishments in carrying out BOCC goal(s)/priorities, if applicable.

The Planning Board is involved in the ongoing implementation of the 2030 Comprehensive Plan. Potential projects listed in the “Implementation Bridge,” such as updates to home occupation standards, continue to be worked on as do small area plan implementation measures, such as the Efland zoning overlay districts.

If your board/commission played the role of an Element Lead Advisory Board involved in the 2030 Comprehensive Plan preparation process, please indicate your board’s activities/accomplishments as they may relate to the Comprehensive Plan’s goals or objectives.

(The Element Lead Advisory Boards include: Planning Board, EDC, OUTBoard, Commission for the Environment, Historic Preservation Commission, Agriculture Preservation Board, Affordable Housing Board, Recreation and Parks Advisory Council)

The processing of small area plan recommendations specifically addresses an objective included in the 2030 Comprehensive Plan. Following are specific Comprehensive Plan Goals and Objectives that have been part of the Planning Board’s recent work:

Land Use Overarching Goal: Coordination of the amount, location, pattern and designation of future land uses, with availability of County services and facilities sufficient to meet the needs of Orange County’s population and economy consistent with other Comprehensive Plan element goals and objectives.

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.

Objective LU-1.2: Evaluate and report on whether existing and approved locations for future residential and non-residential developments are coordinated with the location of public transportation, commercial and community services, and adequate supporting infrastructure (i.e., water and sewer services, high-speed internet access, streets and sidewalks).

Land Use Goal 3: A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.

Objective LU-3.1: Discourage urban sprawl, encourage a separation of urban and rural land uses, and direct new development into areas where necessary community facilities and services exist through periodic updates to the Land Use Plan.

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

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.

Economic Development Overarching Goal: Viable and sustainable economic development that contributes to both property and sales tax revenues, and enhances high quality employment opportunities for County residents.

Objective ED-1.5: Identify barriers to development of desirable businesses and local businesses, and mitigate these barriers.

Transportation Goal 3: Integrated land use planning and transportation planning that serves existing development supports future development, and is consistent with the County's land use plans which include provisions for preserving the natural environment and community character.

Identify any activities this board/commission expects to carry out in 2015 as they relate to established BOCC goals and priorities.

If applicable, if there a fiscal impact (i.e., funding, staff time, other resources) associated with these proposed activities (please list).

The Board will continue its work in partnership with staff to further implement recommendations contained within small area plans and the UDO Implementation Bridge and to implement existing and new BOCC priorities, some of which may emerge at the January 2015 BOCC retreat:

1. **Public Hearing Process:** Finalize UDO text amendments to make changes to the existing public hearing process
2. **Efland Overlay Districts:** UDO Text, Zoning Atlas, and Comprehensive Plan Amendments to add two new overlay zoning districts in the Efland area and specify design standards for the areas. (This item was denied by the BOCC in February 2013 and was brought back to the February 2014 quarterly public hearing. Staff is currently working with community members to educate the community about the overlay districts and determine if changes should be made. This item is anticipated for adoption consideration in March 2015).
3. **New and/or Revised Zoning District:** UDO text amendment to adopt a new general use zoning district and/or “fine tune” existing ED zoning to match locational attributes for targeted research and development industry and applied light manufacturing. Consider appropriate mixed use areas acknowledging the other areas will have a stronger non-residential use program.
4. **Clustering in Rural Areas:** Consider rural village concepts. Examine innovative septic systems whether in individual or community settings.
5. **Population Projections:** Analyze regional population and employment projections (including MPO 2040 and the development of the MPO 2045 MTP). Rationalize and offer ‘ground truth’ (i.e. what can realistically be built) to the amount and location of new development noted from population modeling (i.e. Community VIZ). Work with municipalities to aggregate their projected ceiling density totals based on their densification efforts and create composite countywide total by adding unincorporated projections. Use in update to Comprehensive Plan Data Element.
6. **Legislative Changes:** Amend regulations as necessary in response to legislative changes at the State level
7. **Streamline Regulations:** Continue to streamline regulations where possible
8. **2015 BOCC Retreat:** Any priorities that emerge at the January 2015 BOCC retreat

What are the concerns or emerging issues your board has identified for the upcoming year that it plans to address, or wishes to bring to the Commissioners’ attention?

1. **Rural Enterprises:** Continue to expand rural enterprises by completing work on “Agricultural Support Enterprises” in the Rural Buffer. Determine need to address water & sewage disposal issues in the Rural Activity Nodes to encourage development in these nodes.
2. **Emergency Access:** Work with appropriate staff/departments to better ensure properties can be reached by emergency personnel (e.g., driveway width and clearance, bridge weight limit signage and sufficiency to allow a fire truck to pass, gate width, curve radii sufficient for emergency vehicles).

3. **Mass Gathering/Special Events:** Revisions to UDO regarding mass gathering and special events (must wait until after Emergency Services/Attorney's Office enacts a Mass Gathering Ordinance)
4. **Pre-zoning for Economic Development Projects:** Continue to "prezone" areas where possible to focus growth in appropriate areas with consistent land uses, thereby improving the review and approval process.
5. **Adult Entertainment:** County should adopt an adult entertainment ordinance that is consistent with State and Federal laws.
6. **Nuisance Ordinance:** Consider a nuisance ordinance for Economic Development, Commercial, and Commercial-Industrial Transition Activity Nodes and areas adjacent to these land use classifications to "protect" these areas slated for economic development projects.
7. **Transportation Issues:** Need for better public transit in rural areas, including senior citizen mobility, and "transit oriented development." Accent focus on transit dependent populations and their connection to other transit infrastructure.
8. **Affordable and Senior Housing:** On-going need for affordable housing opportunities, including senior housing, in the county. Also include the role of MHP's in affordable housing.

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**ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: November 5, 2014

**Action Agenda
Item No. 8**

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
2. Flow Chart of Possible Process for Legislative items

INFORMATION CONTACT: (919)

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

PURPOSE: To continue discussion on the public hearing process changes presented at the September 8, 2014 quarterly public hearing, with a focus on the quasi-judicial process, and provide input to the Board of County Commissioners (BOCC).

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).

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. The Planning Board extensively discussed this topic at its October 8, 2014 meeting (minutes are available as a separate item on the November 5th Planning Board agenda). Discussion at that meeting intermingled Legislative and Quasi-Judicial processes but was clear enough on Legislative items to allow staff to prepare an interim report for the November 6th Board of County Commissioners meeting. The interim report

includes the flow chart in Attachment 2. The BOCC item will be available on or shortly after October 31st at: <http://www.orangecountync.gov/OCCLERKS/agenmenu.asp>. Part of the recommendation for the November 6th BOCC meeting is for the BOCC to close the public hearing on this item because the text amendment that was heard at the September 8th quarterly public hearing is expected to change significantly enough that the text amendment will have to be heard again at a future public hearing, perhaps in February 2015.

Focus on Quasi-Judicial Process

Planning staff suggests the Planning Board focus on the quasi-judicial process at the November 5th meeting. Relevant information is included in Attachment 1 and specific aspects to be discussed should include:

1. Should the Planning Board make recommendations on quasi-judicial matters?
 - a. It should be noted that years ago, the Planning Board did not make recommendations on Class A Special Use Permits. The practice came in to being because there was confusion on what the Planning Board's role is for those projects that are both Legislative & Quasi-Judicial (e.g., Conditional Use District, which was called "Planned Development" in the former Zoning Ordinance).
2. If the Planning Board continues to make a recommendation, when does the Planning Board's recommendation occur? (Before or after the public hearing).
3. If the Planning Board continues to make a recommendation, what exactly is the Planning Board meeting since quasi-judicial matters require evidence to be presented by experts and comments by non-experts should not be allowed and should not be part of the decision process.

The Attorney's office intends to attend the November 5 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. Additional notifications (sent via first class mail) would increase overall costs slightly. 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, depending on the whether public hearing items can be placed on regular BOCC meeting agendas (as opposed to keeping the existing process of quarterly public hearings only). Initial meetings with these departments have indicated that necessary changes can be accommodated.

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

1. Review and discuss as necessary the proposed public hearing process for Legislative Items (Attachment 2).
2. Discuss members' ideas about what the process should be for quasi-judicial items and the Planning Board's role in quasi-judicial items, particularly if it is no longer attending the quarterly public hearings as an official board.

Attachment 1

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

- 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.”

Quasi-Judicial Items

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

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.

