

MINUTES
ORANGE COUNTY PLANNING BOARD
DECEMBER 4, 2013
REGULAR MEETING

MEMBERS PRESENT: Lisa Stuckey, Chapel Hill Township Representative; James Lea, Cedar Grove Township Representative; Herman Staats, At-Large, Cedar Grove Township; Paul Guthrie, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Tony Blake, Bingham Township Representative;

MEMBERS ABSENT: Johnny Randall, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Stephanie O'Rourke, Eno Township Representative; Maxecine Mitchell, At-Large Bingham Township; Peter Hallenbeck (Chair), Cheeks Township Representative; Vacant- Hillsborough Township Representative;

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

OTHERS PRESENT: Jay Hitchens

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS
a) Planning Calendar for December and January
b) 2014 Planning Board Meeting Calendar

AGENDA ITEM 3: APPROVAL OF MINUTES
NOVEMBER 6, 2013 ORC MEETING
NOVEMBER 6, 2013 REGULAR MEETING

MOTION by Buddy Hartley to approve the November 6, 2013 Planning Board and ORC notes with correction. Seconded by Herman Staats.

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

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PUBLIC CHARGE

The Planning Board pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time, should any member of the Board or any citizen 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.

AGENDA ITEM 6: CHAIR COMMENTS

Agenda Item 7: Planning Board Annual Report and Work Plan for County Commissioners' Annual Planning Retreat – To review and approve the input form for the annual BOCC planning retreat in January 2014. The annual report informs the BOCC of the past year's activities of advisory boards/commissions and assists in overall County work planning.
Presenter: Craig Benedict, Planning Director

Craig Benedict reviewed item

Lisa Stuckey: Does anyone have any questions? Do we have a motion that includes adding number 10?

MOTION by Buddy Hartley to approve the Planning Board annual report and work plan with the addition of number 10. Seconded by Herman Staats.

VOTE: UNANIMOUS

Agenda Item 8: Unified Development Ordinance (UDO) Text Amendment – Home Occupations: To discuss the issues raised at the November quarterly public hearing on Planning Board – Planning Director initiated amendments to the Unified Development Ordinance (UDO) to change the existing standards for home occupations, modify and clarify existing regulations and definitions associated with home occupations, and allow for the exemption of special events organized or affiliated with a government or non-profit agency and to decide on a course of action for revisions to the proposed amendments.
Presenter: Ashley Moncado, Special Projects Planner

Herman Staats: Are there any monetary values that guide whether something is considered an occupation?

Ashley Moncado: I have not seen anything in my research that puts a value on it.

Paul Guthrie: It is a big question in terms of the revised definition of what was covered but also because you are technically out of compliance or illegal if you have one visitor and one retail sale out of your house the way this is written. I think the definition is vague because the way it is worded and it pales behind the question of how many transactions is the planning staff going to have to handle, and with these definitions there will be thousands.

Ashley Moncado: The purpose of this item is to be able to review the comments from the quarterly public hearing and receive feedback from you to provide a proposal for review at the January Planning Board meeting.

Ashley Moncado reviewed the list of comments.

Paul Guthrie: We have a home business in our house, my daughter works full time in her house in Orange County. I want to zero in on the standards of evaluations of all home occupations in paragraph in red on page 40. That

107 statement by its character would suggest that if any one of those things occurred in your business you would be
108 required to file for at least a minor permit?

109
110 Ashley Moncado: Correct. Our intention of writing the on-site retail sales...what you are describing is that she is
111 not welcoming anyone on to the site. Everything is done online or on the phone.

112
113 Paul Guthrie: What about the internet sale.

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115 Ashley Moncado: If you are looking at internet sales and no one is being welcome on site then they would be
116 exempt. As soon as you welcome people on the site and have a sales transaction, then you would have to go
117 through a minor home occupation.

118
119 Paul Guthrie: I went back to the UDO and in the context of this language that is what flagged this immediately. I
120 think we need to be careful as we expand this.

121
122 Tony Blake: I was reading the Carrboro response on page 31 and they brought up a couple of issues that were
123 transitive issues from allowing the other home base business and it talks about how many people and how many
124 vehicles and their security. These are the types of small businesses under the radar out there and I don't want to
125 discourage them. We need to find a way to fix that.

126
127 Herman Staats: If this is a planning issue where we consider use of property, etc. then the implementation of it and
128 what guides that implementation is the question. Are we asking for links or copies of tax returns? How do we
129 implement this? If for farming, you have to have a dollar amount to be classified as a farm.

130
131 Perdita Holtz: Can I clarify that point. It is no longer the case that you have to have a certain level of sales to be
132 classified a bona fide farm; the state legislature changed it last year. There is no longer a minimum amount.

133
134 Herman Staats: My point is about being tax exempt with a certain dollar amount that defines that you a real farm
135 and deserve a tax exempt status. Is it the purpose of this permitting process to make someone selling a hundred
136 bucks a year to get a permit? Are there guidelines?

137
138 Paul Guthrie: The only difficulties are sales is very different in terms of that one sale.

139
140 Lisa Stuckey: A lot of sole proprietorships aren't tax exempt. I don't know where to draw the line. How onerous is
141 the process we have developed?

142
143 Michael Harvey: Under the current process, which is what the minor will end up being, the application package
144 requires the applicant show us the property using a plot plan, provide a floor plan of your house, and a detailed
145 narrative explaining the operations of the home based business. We can typically handle an application within 30
146 minutes if you want to wait for it, you pay your \$90 application fee, we send you the approval packet, you sign it and
147 you are on record as having the permit being issued.

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149 Lisa Stuckey: Is there an annual fee?

150
151 Michael Harvey: No.

152
153 Paul Guthrie: This is a backdoor business license.

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155 Perdita Holtz: No, it is a land use regulation.

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157 Tony Blake: We are interested in the impact on their property and their neighbors. The function of planning is to
158 say, we are looking for innovation, we shouldn't hobble it. The rest of the regulation is for another department.

159

160 Lisa Stuckey: If it is basically invisible to the neighbors, how much impact is that having on the neighbors?
161
162 Tony Blake: We are allowing some of these subdivisions to come in and they are next to a farm, it's like the guy
163 moving next to the airport and complaining about the planes.
164
165 Lisa Stuckey: On page 40, I would like to get rid of 2A, 3A and 6. I think it is very inappropriate.
166
167 Ashley Moncado: To be clear, this isn't about the office space but the day to day operations they would be allowed
168 to operate.
169
170 Lisa Stuckey: I think with number 2A4 that it shouldn't be visible. Something should be added for visible impact.
171
172 Craig Benedict: There is a standard for normal storage for home occupations license which is 500 square feet. As
173 long as that is screened, you are saying it is ok.
174
175 Herman Staats: I am still concerned about implementation.
176
177 Tony Blake: What is the definition of a business?
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179 Craig Benedict: If someone is claiming it as a business, and they have to meet tax laws, then they should have a
180 home occupation license.
181
182 Paul Guthrie: You just brought in all the telecommuters with that last phrase.
183
184 Tony Blake: The way people find out is if there is a complaint issue.
185
186 Perdita Holtz: Michael uses his discretion to find that out.
187
188 Michael Harvey: The goal of the UDO is not to stop Lucy Van Pelt from selling lemonade but allow reasonable use
189 of property so that your reasonable use doesn't impact your neighbors. If you have an incidental home occupation,
190 selling a tree they cut down, does that activity rise to a level of business requiring the submitted of a home
191 occupation permit application for review and approval? Not unless you do it every day.
192
193 Ashley Moncado: We can look into adding language regarding no visible disturbance impact. If that is included,
194 would you see there would not be a need for landscaping and buffering or keep that intact?
195
196 Lisa Stuckey: I don't know. To me that is a little bit of protection.
197
198 Ashley Moncado: If you exceed the setback standard, and you go beyond that you would not have provide
199 landscaping.
200
201 Craig Benedict: There was also a lot size involved.
202
203 Paul Guthrie: How will you enforce this if it approved?
204
205 Craig Benedict: We are permitting this amount; we know there is this amount. By this ordinance, we are allowing
206 this to happen or bringing more into compliance. We think we have resolved a lot of issues more than creating
207 issues. The implementation, we are doing public outreach, we may do a phase in but it is not going to be a hard
208 handed implementation because rural lifestyles are engrained. This will be a soft implementation.
209
210 Lisa Stuckey: You look this up, an accessory business use which is owned or operated. That is the definition. Is it
211 helpful for you to have a more concrete definition or is that adequate?
212

213 Craig Benedict: We like to be as specific as possible.

214

215 Herman Staats: If this is put in place to provide more leverage in the case where it is needed for resolution of
216 complaints, then this will serve its purpose.

217

218 Tony Blake: I didn't want to outlaw people who were not bothering anyone. I think the County wants to encourage
219 development.

220

221 Ashley Moncado: Any more comments?

222

223 Craig Benedict: We will have to see how these revisions you suggested are incorporated into the text and Ashley
224 will bring it back next month for a formal vote.

225

226 Ashley Moncado: After the Planning Board votes on this item in January 2014, it will go to the BOCC in February
227 2014.

228

229 Tony Blake: Did you make any attempt to address Alice's concern about the size of the building in the minor?

230

231 Ashley Moncado: That was commented on for Board discussion tonight.

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234 **Agenda Item 9: Unified Development Ordinance (UDO) Text Amendment – Telecommunications**
235 **Facilities:** To make a recommendation to the BOCC on government-initiated amendments
236 to the Unified Development Ordinance (UDO) to incorporate recent changes in State law with
237 respect to the review and processing of applications proposing the development or
238 modification of telecommunication facilities. This item was heard at the November 25, 2013
239 quarterly public hearing.

240

Presenter: Michael Harvey, Current Planning Supervisor

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242 Michael Harvey: Reviewed proposal.

243

244 Paul Guthrie: The operative word is physical. Do you feel that will limit your ability to object to a modification?

245

246 Michael Harvey: We had that discussion. The answer is no because when you read that section in totality there
247 are other requirements that the cell tower provider will have to adhere to. The County attorney wanted to put in
248 language indicating the physical dimensions (of the tower) are part of the key decision making process because
249 obviously the session laws, as imbedded here, allows for certain increases in height to certain standards (without
250 the need for County approval).

251

252 Michael Harvey: Anything over 200 feet you have to have illuminated.

253

254 Tony Blake: Most of the telecommunication towers we are putting up have requirements for generators and the
255 new one that has come out recently is anti-aviary protection, bird nests being built up there. They are using sound
256 and other means of discouragement, also solar panels on the tops of these towers as ancillary power. Are all those
257 covered in other areas of the UDO?

258

259 Michael Harvey: I would argue they are covered in the standard section for approval where you have to approve
260 any apparatus placed on the tower and prove said apparatus will not overburden the tower to cause structural
261 failure. So it is already covered.

262

263 **MOTION** by Tony Blake to approve the UDO Text Amendment regarding wireless facilities in their jurisdiction with the
264 proposed amendment from the County Attorney. Seconded by Buddy Hartley.

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VOTE: UNANIMOUS

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Agenda Item 10: Unified Development Ordinance (UDO) Text Amendment – Board of Adjustment Operation: To make a recommendation to the BOCC on government-initiated amendments to the Unified Development Ordinance (UDO) to incorporate recent changes in State law with respect to items reviewed and acted upon by the Orange County Board of Adjustment. This item was heard at the November 25, 2013 quarterly public hearing.
Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey: Reviewed item.

MOTION by Herman Staats to recommend to the BOCC the proposed amendments for the UDO Text Amendment related to the Board of Adjustment operation and procedures as amended. Seconded by James Lea.

VOTE: UNANIMOUS

AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS

- a) Board of Adjustment
- b) Orange Unified Transportation

AGENDA ITEM 10: ADJOURNMENT

MOTION: made by Tony Blake to adjourn. Seconded by Buddy Hartley.

VOTE: UNANIMOUS

Pete Hallenbeck, Chair