SUMMARY NOTES
ORANGE COUNTY PLANNING BOARD
JANUARY 8, 2014
ORDINANCE REVIEW COMMITTEE

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

MEMBERS PRESENT: Peter Hallenbeck (Chair), Cheeks Township Representative; James Lea, Cedar Grove Township Representative; Herman Staats, At-Large, Cedar Grove Township; Paul Guthrie, At-Large, Chapel Hill Township; Tony Blake, Bingham Township Representative; Buddy Hartley, Little River Township Representative; Johnny Randall, At-Large Chapel Hill Township;

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

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – CHANGES TO THE PUBLIC HEARING PROCESS

To continue review and comment upon proposed revisions to the UDO to change the existing public hearing process and to amend other provisions that need to be changed if the public hearing process is amended.

Presenter: Perdita Holtz, Special Projects Coordinator

Perdita Holtz: Reviewed abstract.

Pete Hallenbeck: I think the chart on page 11 is really good, it tells you what's going on. I also like the idea of discontinuing the joint BOCC/Planning Board meetings. It seems like the role of the Planning Board during these meetings tends to be just to sit there and there are other opportunities for the Planning Board to voice its concern. There is nothing to keep Planning Board members from attending the public hearing and I would not object if it was decided that the Planning Board Chair was required to be at the public hearing or at least somebody from the Planning Board. I do think it is good and important when you have citizen input to be able to hear it in addition to just reading it. I think not having the joint meeting is good but I'd like to have a mechanism where someone from the Planning Board is there so they can get more than the word. There are comments from both the Commissioners and the public during the hearing and it would be good to have a member present to hear them.

Paul Guthrie: Basically, I think this is a good move for a couple of reason. One is the increased number of hearing opportunities which I think can expedite a lot of the procedure and maybe take a little pressure off the planning staff since it gets spread out. They don't have to dump everything into four quarters. I do have a couple of questions. One is what kind of communication summarizing the public hearing will be transmitted to the Planning Board so that the Planning Board can intelligently consider the topic?

Perdita Holtz: It is unlikely that official quarterly public hearing minutes would be available quick enough for Planning Board meetings. We are envisioning that the Planning Board meeting would occur within two to three weeks after the public hearing and generally meeting minutes take longer than that for the Clerk's office to turn around. It would probably be, if the Planning Board was not going to view the meeting on the internet in the comfort of your own home, similar to what happens now where comments that were made are in the amendment outline

form and the abstract and we provide a staff response, as necessary, to those comments. So it would pretty much be a staff report of what took place.

Pete Hallenbeck: I also like the quicker review and more meetings and less time for the public to get something through. That is certainly the number one point of all of this.

Perdita Holtz: I should mention that it is probably not going to be less time from application deadline to decision but there will be more opportunities for someone to submit an application. If they miss a deadline, they don't have to wait as long until the next application deadline.

Paul Guthrie: On page 19, in the new language, Planning Board shall make a recommendation based on information entered into the record at the public hearing but not make the finding required in section 5.3.2A. Does that mean that it is going to be the individual duty of the Planning Board member to look at all the documentation put in the public record at the time of the hearing in order to justify its decision?

Perdita Holtz: No, this is for Special Use Permits. They don't come along that often but for Class A Special Use Permits there is a 15 page form of yes/no answers that staff fills out for the Planning Board on whether it meets the requirements of various sections such as if they have enough landscaping, if they have enough buffer, etc. and we check yes or no in staff's opinion and then the Planning Board either concurs with that opinion or dissents from that opinion. On that form there are four questions that staff does not make a recommendation on and those are things that the Planning Board has to come to its own conclusion about and the BOCC has to come to its own conclusion as well. Those are the section referenced here and if you were not at the hearing it would be legally murky to make those findings if you weren't in attendance so that is what this is in reference to. I should also mention that on page 17, the language of 2.3.10b needs to be revised a little bit before it goes to public hearing so that will be changing from what you see in front of you here.

Paul Guthrie: You have similar language in 2.8.8b. Another question, have you thought about how you would space the 8 mandatory hearing dates?

Perdita Holtz: It is going to be up to the BOCC to decide that but we as staff are going to recommend to them that they probably do hearings in the months of February, March, April, May, September, October, November. January they only have one meeting per year and it is usually very full and in December those are the last meetings before the break so we don't want to put them there plus the agenda deadlines are different due to the holidays. June is off as it is very budget heavy month when they have to adopt the budget by the end of the month. That is our staff recommendation but the BOCC will stagger them however they want.

Paul Guthrie: Again in 2.8.8e, which is existing language, do you think that existing language is a little too restrictive given the new format of not having the joint hearings? Essentially, the first time we'll be exposed to testimony will be in the presentation at the Planning Board meeting and does that mean we cut off verbal testimony.

Perdita Holtz: The reason it was adopted was the BOCC did not want to have oral evidence at the Planning Board meetings that they did not also hear. That is why this language exists. The meeting at the Planning Board is not going to be an official public hearing it is just a regular Planning Board meeting and technically people will not be able to come and speak if they don't also have their comments in writing. If you think that is not desirable, you can make a recommendation to look at that or change the language.

Paul Guthrie: I would encourage you to think about it because, and I'm wondering if that may even need to be elaborated on a little bit, because if somebody wants to come the Planning Board meeting or only knows about it

through the Planning Board then we are advising County Commissioners who have already had a hearing. It bothers me a little bit.

Pete Hallenbeck: I think that could be mentioned to the Commissioners but it is definitely their call. I see their concern that the Planning Board meeting would not be a public hearing. If people show to speak all of a sudden it is a public hearing but the Planning Board is a mechanism for receiving input.

Paul Guthrie: Does that mean inversely if someone wants to speak on the subject on our agenda, they cannot speak.

Pete Hallenbeck: The way I read it is if they have something written down they are allowed to come and give it to the Board. I think the Planning Board could interact with them if they had questions or clarifications. The only thing I would worry about with someone giving just oral evidence at the Planning Board meeting is that has to be carefully documented as we certainly don't a scenario where someone says they said something at a meeting and there is no documentation of it. The public hearing is better equipped for that. Finally, the Commissioners may, for the same reason that I was, want to have Planning Board member present at the public hearings. I think the Commissioners get a lot from hearing people talk and how they speak and how passionate they are and that might be another reason they want to make sure that if somebody's just doing an oral presentation, they hear it. If staff wanted to bounce that off the Commissioners and verify, yes we want oral presentations only at the County Commissioners' meetings and anything presented at Planning Board should be written, they can verify that. I am a little nervous about the Planning Board taking oral presentations we have to be careful of the interactions and cannot promise anything like they can. The vote we have is not binding and the Commissioners are not at Planning Board meetings to get all those nuances that come with an oral presentation.

Paul Guthrie: I have some concerns in the bigger picture than this topic. Putting that kind of restrictions on communications to a citizen advisory board. I think it's a road we have to be very careful about how we define because it could have major implications on the ability of this Board to function in what I perceive is what it's capacity is. That goes beyond this.

Pete Hallenbeck: I do believe it does have to be carefully spelled out. You could have problems if you said all you can do is come and give us written paper and I think you would have a problem if anyone could just walk in and start talking and interacting and how the Planning Board would convey that to the Commissioners.

Paul Guthrie: I'm done.

AGENDA ITEM 3: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – CREATE NEW ZONING DISTRICT
To review and comment upon the creation of a new general use zoning district, entitled Research Development and Applied Manufacturing District (RDAM), which will allow for the location of office/research facilities and incidental light manufacturing on the same parcel of property. The district is intended to be allowed within the Commercial Industrial Transition Activity Nodes as denoted on the Future Land Use Map of the Comprehensive Plan.
Presenter: Michael Harvey, Current Planning Supervisor

Craig Benedict introduced with background information.

Michael Harvey reviewed abstract.

Craig Benedict: One last note, we have begun preliminary discussions with Mebane so that the ease of a development proposal coming in doesn't have an O/I designation with the County and then upon annexation they have to go through another rezoning process. Craig continued review.

Paul Guthrie: I think this is a good beginning. On page 30, where you describe some of the standards that might apply to this theoretical district and you get to the question in 5 on the discharge of waste in the ground, can you be that specific on square footage when you are adding to this district, the type of uses? The definition that you are using there for the square footage for protection of the groundwater, have you checked that given the broadening nature of what the discharges might be?

Michael Harvey: That is, quite candidly, language contained within every zoning district that we have. It is in here because we enforce that standard in every zoning district. The ultimate size of property is based on compliance, not only with all of our standards, but having sufficient and adequate area on a given property to support septic and repair area if the property is going to be served by an on-site septic system. These are minimums that we have worked out with the health department. You may not get a large facility on a parcel of property that has a lot of wastewater generation just on septic alone regardless of the minimum lot size.

Paul Guthrie: I guess what I'm suggesting is as you refine what this district looks like, you might want to revisit.

Craig Benedict: A lot of the area that would be for this zoning district would have public water and sewer.

Paul Guthrie: Second issue in this district is what energy sources are available? The question is if you're going to have to build a huge transmission line or pipeline to the site disrupting the surrounding area, is that taken into consideration of whether or not it's the type of facility going into this.....

Michael Harvey: Provision of utilities is always a consideration for any land use regardless of what zoning district it's in. The applicant ultimately bears the burden for being able to say yes, services are available and are sufficient to support the proposed operations, and has the obligation and the burden to get it there in accordance with the UDO. I would say it is already required as part of site plan submittal. It's handled on a case by case basis regardless of the district.

Paul Guthrie: Part of that question is triggered by the story in the paper this morning, the gas pipeline in the eastern part of the County that has some disruption to the right-of-way. I think that as you start changing uses and making certain areas more available for different uses that's one of the things you'll need to pay some attention to.

Michael Harvey: I think one of the ways to address your concern is that as this district is currently envisioned it would only be allowed in the Commercial/Industrial Transition Activity Node where there is existing infrastructure to support large scale non-residential land uses. We have separate zoning districts that only allow certain uses based on the ability for local land uses to be supported by conventional septic or well.

Craig Benedict: The infrastructure this Board's been mentioning is just not water/sewer/gas/electric it's getting telecommunications in the ground and we're finding along West Ten Road that we're having difficulty within 60 to 80 feet all of these uses so we may go on the south side of the road or we may get additional easements paralleling the right-of-way. Due to the potential intensity to these districts, and having right turn lanes, left turn lanes, etc. we better take a look at what our right-of-way needs are adjacent to these districts.

Herman Staats: I like the idea of it. Do we have any examples where the lack of this type of zoning has created problems or prevented somebody from coming in?

Craig Benedict: I can't mention the companies but I'd say every few weeks we meet with somebody through the economic development circle and sometimes we look at existing land with existing building and bring Michael into it. Typically, there is an issue so I would say yes we have found people who would be looking for categories that would allow more activities.

Herman Staats: So this is primarily to allow manufacturing on that site or allow an increased level of manufacturing on that site that also allows research; where does biotechnology research type of zoning fit in Orange County?

Craig Benedict: There is a separate category, when a company comes in we try to categorize it. The unique thing with research and development is there may be 20% operations in research and development and then the back office is about how to put that stuff together. There are a lot of interpretations that can get us in trouble. This would give us a little more latitude.

Michael Harvey: If you go to page 27 of the abstract, we have listed out those various general use zoning districts where research facilities are allowed as permitted uses. We also have the conditional use zoning process where individuals could come in with a proposal to put it anywhere if they wanted to go through that process. I think the concern here is trying to take existing zoning or a new district and address a concern about marketing for land uses that have a diverse component to them that involve a myriad of different activities each one of which could be classified as its own principal use on the same site.

Buddy Hartley: I like the concept. Say you've got a bank coming in, a hotel, a vocational school, fire department/rescue and all that but then the question I would have is that lot of people will be needing to eat. It would be a good spot for a restaurant. Could the hotel have an onsite restaurant?

Michael Harvey: Yes it could.

Buddy Hartley: I'm taking about an area where a lot of people are staying in that area.

Craig Benedict: If it were on a separate parcel, they could go through a Special Use process. That is the type of office park we would like to see.

Buddy Hartley: That's what I'm thinking we're trying to do.

Tony Blake: Has any thought been given to defining the percentage of any particular activity and marrying that to the land use? For example, you have 200 acres here and we only want about 50 acres in that manufacturing maximum in that spot, I don't know but it seems to me over time things morph.

Michael Harvey: The problem with percentages is statistics can be used to say anything you want. You can have a permitted use that all of a sudden becomes nonconforming because it is at 51% because you have established a percentage base to it. It would be more appropriate to come up with a list of categories and uses that are permitted in association with that use which is what this district is a start towards and a comprehensive reassessment of other districts to see if we need to provide that same level of flexibility.

Tony Blake: The problem that occurs to me is that company A comes in here and company B and company C and company A grows faster than B and C and creates more pressure on the infrastructure in that area than B and C. Then B and C want to grow but they can't and conflict can arise.

Craig Benedict: When Orange County worked with the Town of Hillsborough for the Hillsborough area economic development zones, we had those percentage concerns. We developed somewhat of a Small Area Plan that was

part of a land use document. I think that maybe as a backdrop document, which would be more in the land use/Small Area Plan size if we explain what we are trying to do so it's not all peak morning and afternoon traffic and that's what we tried to do in Hillsborough. Maybe we could provide a background document.

Tony Blake: So we don't plan ourselves into a corner. That was my only concern, otherwise I think it's a great idea. It has a lot of merit, especially the idea of melding it with the partners on either side of the County, allowing that transition to become smoother and more predictable.

Pete Hallenbeck: It is interesting these days, the idea of and R & D group going into Class A office space. I think this is a great idea. I am currently involved in a software project but I may have to make a little bit of hardware. This is something that would be nice that doesn't exist. The ability to have an R&D group that was doing software but had to make some hardware on the side and contract out pieces and bring it together and assemble it is great. I also think in a lot of startups you see when you start out, the R & D would be very heavy. If it works, that percentage of the company gets less and less and you start manufacturing there to see if it's going to work and it just grows. I like it from that point of view. Another reason I think this is really important is something I am seeing people I work with, the old days of R & D are going away and the tendency now is to have a lot less separation between R & D and engineering and production and you want all those people to get together working with each other. This makes a ton of sense. Finally, I moved a company I started to Durham because there were problems with some of the Orange County rules. Another group I got in with talked about bringing something into the County, and we didn't because we didn't have time for all that was involved. From all levels, I like this a lot.

AGENDA ITEM 4: ADJOURNMENT

Meeting was adjourned

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Pete Hallenbeck, Chair