

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, January 8, 2014  
Ordinance Review Committee Meeting – 6:00 pm

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**Note:** This is a meeting of the Ordinance Review Committee (ORC) for Planning Board members who would like to review and comment on the proposed amendments before the items are placed on the next Quarterly Public Hearing agenda. Attendance is not mandatory and a quorum is not necessary for meetings of the ORC.  
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<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
1.		<b>CALL TO ORDER</b>
2.	3-2*	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – CHANGES TO PUBLIC HEARING PROCESS</b>  To 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.  <b>Presenter:</b> Perdita Holtz, Planning Systems Coordinator
3.	2+-46	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – CREATE NEW ZONING DISTRICT</b>  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.  <b>Presenter:</b> Michael Harvey, Current Planning Supervisor
4.		<b>ADJOURNMENT</b>

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**ORANGE COUNTY  
PLANNING BOARD ORDINANCE REVIEW COMMITTEE**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** January 8, 2014

**Action Agenda  
Item No. 2**

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

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**DEPARTMENT:** Planning and Inspections

**PUBLIC HEARING: (Y/N)**

No

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**ATTACHMENT(S):**

1. Comprehensive Plan/UDO Amendment Outline Form (UDO/Zoning 2013-07) including Flow Charts of Existing and Proposed Processes
2. Draft UDO Text Amendments

**INFORMATION CONTACT: (919)**

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

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**PURPOSE:** To review and comment upon Planning Director initiated Unified Development Ordinance (UDO) text amendments to change the existing public hearing process for UDO and Comprehensive Plan-related items.

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

The "Amendment Outline Form" (Attachment 1) for these amendments was approved by the BOCC at its October 15, 2013 regular meeting. This item is expected to be on the February 24, 2014 quarterly public hearing agenda.

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

**RECOMMENDATION(S):** The Planning Staff recommends the Ordinance Review Committee review and comment upon the proposed amendments to the UDO.

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

UDO / Zoning-2013-07  
Changes to Public Hearing Process

## A. AMENDMENT TYPE

### Map Amendments

- Land Use Element Map:  
From: - - -  
To: - - -
- Zoning Map:  
From: - - -  
To: - - -
- Other:

### Text Amendments

- Comprehensive Plan Text:  
Section(s):
- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes
 Section(s): 2.1, 2.3, 2.7, 2.8, and 5.10.2.
- Other:

## B. RATIONALE

- Purpose/Mission

To consider changes to the current public hearing process for Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments. The current public hearing process is comprised of joint quarterly public hearings with the Planning Board and BOCC, which requires a quorum of both Boards.

County staff and elected officials received comments during development of the

Comprehensive Plan (2008) and Unified Development Ordinance (2011) about the perceived need to streamline and speed up decisions on applications.

- **Analysis**

The topic of amending the current quarterly public hearing process was recently brought up as part of the work on “Agricultural Support Enterprises” (ASE) because the pre-2010 ASE work included a different approval process for ASE-related projects. The September 9, 2013 BOCC work session (held at the end of the quarterly public hearing) materials contain more information about this topic: <http://orangecountync.gov/occlerks/130909.pdf>, including staff’s concern about having a different review process for only certain projects. The purpose of the work session was to obtain BOCC input/direction on the public hearing process, which staff received. There is not total agreement among BOCC members that the current process should be changed. However, a majority of the BOCC directed staff to bring forward proposed changes for public hearing and consideration.

**Proposed Changes**

The following changes to the public hearing process are being proposed:

- End the quarterly hearings and instead have the BOCC designate a minimum of 8 meetings per year where Comprehensive Plan, UDO, and Zoning Atlas amendments can be heard. The 8 meetings (minimum) would be designated each Fall when the BOCC approves its meeting schedule for the following calendar year; the public hearing dates could occur in conjunction with any type of meeting on the BOCC calendar (regular, work session, etc.) – it would be at the discretion of the BOCC each year.
  - It should be noted that public hearings dates between the 10<sup>th</sup> and the 20<sup>th</sup> of the month would generally provide the greatest level of efficiency from a timing standpoint. This is because the Planning Board meets on the first Wednesday of each month (with agenda materials distributed the last Wednesday of each month). Designating public hearing dates mid-month means that applications are not “sitting” waiting for further action, as could happen if the public hearing is held early in the month, and it gives staff time to research any issues that arise at the public hearing, something that is not always possible to do when hearing occur late in the month since Planning Board agenda distribution must occur on the last Wednesday of each month.
- Stop holding the public hearings as joint hearings with the Planning Board. The Planning Board is an advisory board comprised of volunteers and there are sometimes issues of having a quorum of members present for hearings/meetings. A joint hearing cannot occur without a quorum of members from both Boards. The Planning Board will provide a recommendation to the BOCC after the public hearing. This would allow Planning Board members to either attend the public hearing or view the hearing on the internet (if available) after the hearing occurs but before the Planning Board meeting in order to hear public comments prior to making a recommendation. The proposed process flow charts of the current process and the proposed process are included at the end of this Form. It should be noted that staff is

suggesting that the policy of having the BOCC approve the required legal advertisement would be removed as part of the streamlining effort.

### Background

As staff indicated at the work session, Orange County's typical review timeframe in recent years (4-5 months from application deadline to BOCC decision) compares favorably to other North Carolina local governments. One of the more significant differences is that most local governments in North Carolina have a monthly public hearing cycle rather than the quarterly cycle Orange County adheres to.

It is also notable that the current process was put into place at least 20 years ago and one of the purposes was so residents who took interest in the types of matters heard at the quarterly hearings would know in which months the hearings occur. Dissemination of information was quite different 20+ years ago when compared to today. The availability of agendas and hearing information on the internet makes it easier for interested persons to keep apprised of matters in which they are interested whereas 20+ years ago, interested people likely had to obtain hard copies of agendas/materials directly from the County Clerk.

### Agenda Process

Internal processes in the Planning Department, Manager's Office, and Clerk's office will need to be updated if the amendments are adopted. Initial meetings between the departments have indicated that necessary adjustments can be made although it will be a change from existing processes. An example of an internal change is that, in order to meet statutory requirements, the first legal advertisement for the public hearing would run on the same day internal departmental agenda review occurs (generally Wednesday afternoon). The current internal agenda setting process allows items to be "bumped" from agendas if necessary; public hearing items could not be "bumped" without incurring costs of running new legal advertisements and running cancellation ads, if necessary. Additionally, for items that require mailed notifications, Planning staff would likely have already prepared the notifications for mailing by the time agenda review occurs, although the actual mail out is on Friday.

If public hearing dates are chosen that do not correspond to a regular BOCC meeting, for example, holding public hearings on BOCC work session dates, the internal agenda process is different. However, staff would have little ability to remove public hearing items that were filed by published application deadline dates.

The existing practice of isolating UDO/Comprehensive Plan-related items on separate meeting agendas (the quarterly public hearings) likely results in more predictable BOCC regular meetings since some planning-related items can generate a great deal of public interest and comment. However, most items in recent years have not had significant public comment at the quarterly public hearings.

Orange County's practice of holding quarterly public hearings is fairly unique in North Carolina (staff is aware of only one other local government – the Town of Hillsborough – that limits public hearing dates to only four times per year). Most local governments in North Carolina have at least one meeting per month where planning-related items can be heard (either as part of a regular meeting or as a meeting

completely set aside for planning-related items); some have more than one meeting per month. It should also be noted that having more potential public hearing dates per year would likely spread out the same number of items per year over more meetings (e.g., there would be fewer items per hearing date). The number of items Orange County typically hears in a given year likely does not warrant a monthly meeting set aside only for planning-related items since there have been quarterly public hearing dates with only a small number of “easier” items.

It should be noted that, especially for non-government initiated items, it could be undesirable to limit the number of items on any particular agenda if the applicant has met the application deadline date. Staff’s informal polling of local government processes has indicated that most local governments put all applications that were received by the filing deadline on the designated agenda, even if some must get tabled to a future meeting due to time constraints; some will call a special meeting in months that are particularly busy. A small number of local governments limit the number of items that can be placed on any one agenda or informally work with applicants to get permission to place items on a later agenda if the agenda for a particular meeting has gotten very full.

Planning Board Involvement

The existing practice of holding a joint public hearing (governing body/Planning Board) is also fairly unique (although the Town of Hillsborough also operates this way). With a joint hearing, a quorum of members of both boards is necessary in order to legitimately hold the hearing. Some local governments have the Planning Board make a recommendation on items prior to the public hearing while other local governments have the Planning Board make a recommendation after the public hearing. Either process can work well, depending on the desires of the local government. If a recommendation is made before the public hearing, the Planning Board focuses its review on the technical merits of an item. If a recommendation is made after the public hearing, the Planning Board’s recommendation can take into consideration comments made at the public hearing. BOCC input at the September 9, 2013 work session leaned strongly toward having the Planning Board make its recommendation after the public hearing and this is how the proposed amendment has been written.

*Additional analysis may be included with the quarterly public hearing materials.*

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

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

- **New Statutes and Rules**

N/A

## C. PROCESS

**1. TIMEFRAME/MILESTONES/DEADLINES**

- a. BOCC Authorization to Proceed

October 15, 2013

- b. Quarterly Public Hearing

February 24, 2014

- c. BOCC Updates/Checkpoints

January 8, 2014 – Planning Board ORC (agenda materials are available to all interested persons)

February 4, 2014 – approval of legal ad for February quarterly public hearing

April 15, 2014 – receive Planning Board recommendation and make decision

- d. Other

**2. PUBLIC INVOLVEMENT PROGRAM**

**Mission/Scope:** Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements.

- a. Planning Board Review:

January 8, 2014 – ORC (Ordinance Review Committee)

March 5, 2014 - recommendation

- b. Advisory Boards:

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\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- c. Local Government Review:

Proposed text amendments will be sent to JPA partners prior to public hearing and in accordance with JPA Agreement.

Planning staff will work with the County Clerk and Manager’s office to ensure the proposed public hearing process will work smoothly with the processes/systems used by these Departments.

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- d. Notice Requirements

Consistent with NC State Statutes – legal ad prior to public hearing

- e. Outreach:

General Public:

\_\_\_\_\_

Small Area Plan Workgroup:

\_\_\_\_\_

Other:

\_\_\_\_\_

### **3. FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2013-14 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

## **D. AMENDMENT IMPLICATIONS**

If adopted, the amendments would change the existing process used by Orange County to review Comprehensive Plan, Unified Development Ordinance, and Zoning Atlas amendments. See section "B" above for additional information.

## **E. SPECIFIC AMENDMENT LANGUAGE**

See Attachment 2.

### **Primary Staff Contact:**

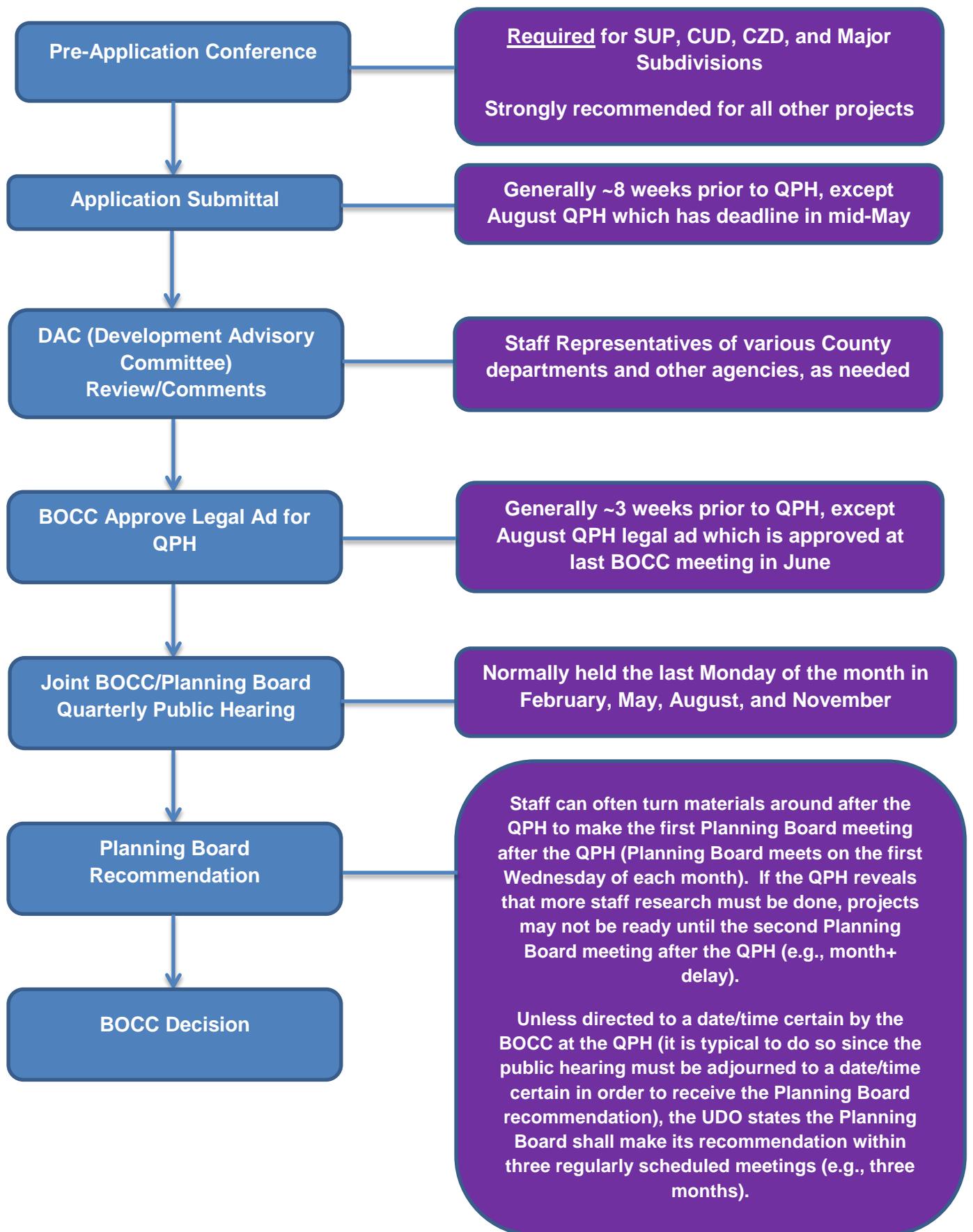
Perdita Holtz, AICP

Planning Department

919-245-2578

pholtz@orangecountync.gov

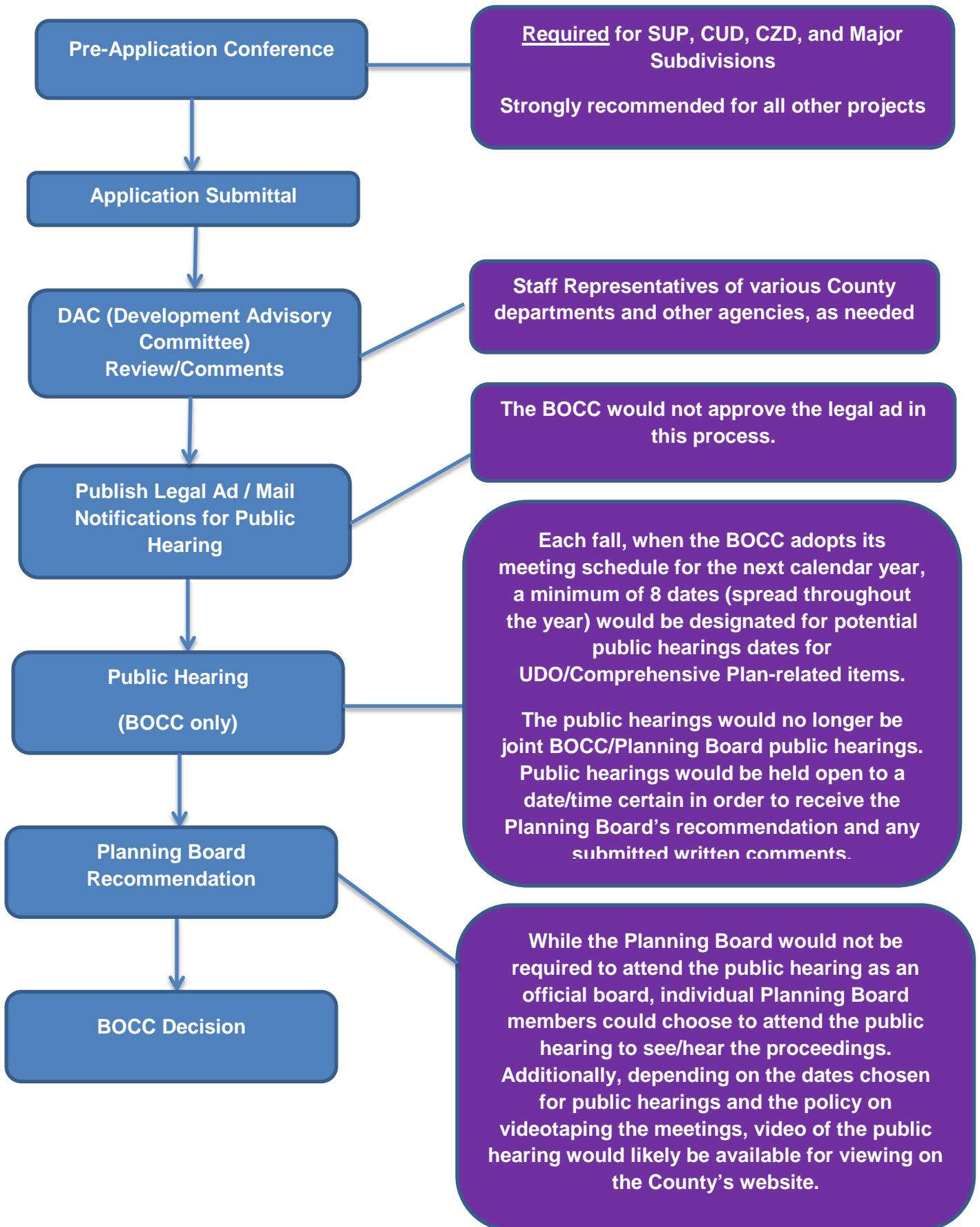
## Existing Review Process for non-County-initiated actions that require a BOCC public hearing



The timeframe from Application Submittal to BOCC Decision is similar for the Existing Process and Proposed Process (a minimum of 4-5 months). From a time perspective, the primary difference between the existing process and the proposed process is the greater number of application due dates per year. There are currently 4 due dates per year, which means that if someone is ready to apply and the application due date is still 2 months away, the application can be submitted but action towards a decision would be on hold for 2 months. If there were a more frequent application deadline and public hearing schedule, the process would be more efficient for some applicants.

In recent years, Orange County's timeframe from application deadline dates to decision compares favorably to most local governments in North Carolina. One of the main differences is that most other local governments have a monthly public hearing cycle rather than the quarterly public hearing cycle Orange County adheres to. Additionally, the practice of having the BOCC approve the legal ad for the public hearings adds additional time (approximately 3 weeks, much more for the August QPH) to the front-end of the schedule since the application deadline date must be early enough to place the legal ad approval item on a BOCC agenda prior to newspaper ad deadline dates.

## Proposed Review Process



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## Amendment Package for Public Hearing Process Changes

### Notes

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text and Comprehensive Plan text to adopt changes to the existing quarterly public hearing process.

Proposed additions to existing text are depicted in **red** and proposed deletions are in **red strikethrough**. Some of the proposed changes utilize footnotes to provide a brief explanation as to rationale. Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at: <http://orangecountync.gov/planning/Ordinances.asp>

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Some text on the following pages has a large "X" through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment. Text with a large "X" is not proposed for deletion; proposed deletions are shown in **red strikethrough** text.

## ARTICLE 2: PROCEDURES

### SECTION 2.1: REVIEW AND DECISION MAKING AUTHORITY – SUMMARY TABLE

The following table provides a brief synopsis of the review and decision-making processes for development applications.

TABLE 2.1: REVIEW AND DECISION MAKING AUTHORITIES						
R=REVIEW DM=DECISION MAKER PH=PUBLIC HEARING						
ZONING/DEVELOPMENT REVIEW RELATED PROCEDURES	PLANNING DIRECTOR	EROSION CONTROL OFFICER	DEVELOPMENT ADVISORY COMMITTEE (DAC)	BOARD OF ADJUSTMENT	PLANNING BOARD	BOCC
Zoning Compliance Permits	R and DM	R	R			
Soil Erosion and Sedimentation Control Permits		R and DM				
Stormwater Management Plans		R and DM				
UDO Text Amendments	R		R		R [1]	DM and PH
Zoning Atlas Amendments	R		R		R [1]	DM and PH
Special Use Permits	R	R	R	DM and PH Class B	R [1] Class A	DM and PH Class A
Zoning Variances	R		R	DM and PH		
Conditional Use	R	R	R		R [1]	DM and PH
Appeals/Interpretations	R		R	DM and PH		
Comprehensive Plan Amendments	R				R [1]	DM and PH
Subdivision Related Procedures						
Exempt	R and DM					
Minor	R and DM	R	R			
Major	R	R	R		R and DM [2]	R and DM
Conditional Use	R	R	R		R [1]	R, DM, and PH
Appeal						
NOTES						
[1]	<p><del>The Planning Board attends a Joint Public Hearing with the BOCC to review all zoning related items requiring a public hearing. The Planning Board will have the item referred to it and shall have up to 90 days to comment on the application.</del> A public hearing is held by the BOCC after which the item is referred to the Planning Board for recommendation. The referral motion shall hold the public hearing open to a date/time certain in order for the BOCC to receive the Planning Board recommendation and any written comments submitted after the public hearing.</p>					
[2]	<p>The Planning Board approves the Concept Plan for a Major Subdivision and then makes a recommendation on the Preliminary Plat to the BOCC.</p>					

**2.2.8 Effect of Denial on Subsequent Applications**

(A) If the Board of County Commissioners denies an application, or the application is withdrawn subsequent to notice of the public hearing thereon, no application for the same or similar amendment, affecting the same property or a portion of it, may be submitted for a period of one year. Said one year period begins on the date of denial or withdrawal, as appropriate.

**SECTION 2.3: COMPREHENSIVE PLAN AMENDMENTS**

**2.3.1 Review and Approval Flow Chart**

The review and approval process for Comprehensive Plan Amendments is shown in the procedure's flowchart.

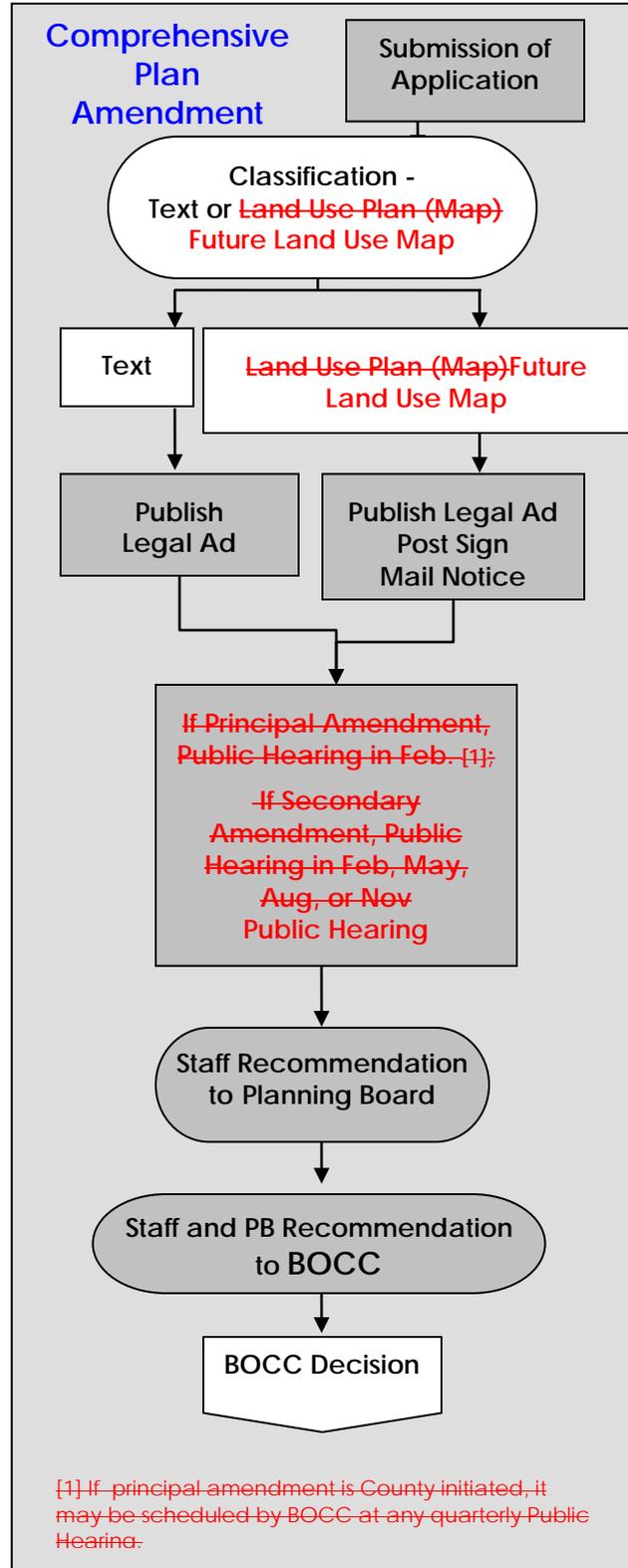
**2.3.2 Generally**

- (A) The Comprehensive Plan shall be so prepared that all or individual elements and parts thereof may be adopted and/or amended by the Board of Commissioners.
- (B) For the purpose of establishing and maintaining sound, stable, and desirable development within Orange County, the Comprehensive Plan or portion thereof shall not be amended except as follows:
  - (1) Because of changed or changing conditions in a particular area or areas of the County;
  - (2) To correct an error or omission; or
  - (3) In response to a change in the policies, objectives, principles or standards governing the physical development of the County.

**2.3.3 Initiation of Amendments**

An amendment to the Comprehensive Plan or portion thereof may be initiated by:

- (A) The Board of Commissioners on its own motion;
- (B) The Planning Board;
- (C) Application, by any person or agency, which accurately and completely sets forth the reason(s) for the proposed amendment as



- prescribed in Section 2.3.2(B); or
- (D) The Planning Director.

### **2.3.4 — Classification of Amendments<sup>1</sup>**

~~Amendments to the Comprehensive Plan or portion thereof are classified as "principal" or "secondary" amendments.~~

**(A) Principal Amendments Include**

- ~~(1) Additions to or modifications of policies, objectives, principles or standards;~~
- ~~(2) The creation of new activity nodes or additions to existing activity nodes which exceed ten acres in land area; or~~
- ~~(3) Proposals for new freestanding plan areas or additions to existing areas that exceed 100 acres in land area.~~

**(B) Secondary Amendments Include**

- ~~(1) The expansion of an activity node where the additional area is contiguous to an existing node and does not increase its land area by more than ten acres;~~
- ~~(2) The expansion of a designated plan area where the additional area is contiguous to the existing plan designation and does not increase its land area by more than 100 acres;~~
- ~~(3) A correction of an error or omission; or~~
- ~~(4) Revisions to any factual or descriptive material.~~

### **2.3.5 Public Hearing Required**

A public hearing shall be held before adoption of any proposed Comprehensive Plan amendment. The Board of County Commissioners ~~and the Planning Board~~ shall hear applications and receive public comment for proposed Comprehensive Plan amendments ~~in a Quarterly Public Hearing at one of the public hearings for UDO/Comprehensive Plan-related items; dates for said public hearings shall be designated each year in accordance with Section 2.8.12.~~

### **2.3.6 Notice Requirements for Public Hearings**

- (A) Notice of the public hearing shall be given by publishing said notice at least twice in a newspaper of general circulation in the County, stating the time and place of such hearing and the substance of the proposed amendment.
- (B) This notice shall appear in said newspaper for two consecutive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.
- (C) The minimum published size of the notice shall be 25 square inches.
- (D) In the case of amendments to the ~~Land Use Plan (map)~~ **Future Land Use Map<sup>2</sup>**, the Planning Director shall prominently post a notice of the public hearing on the site proposed for the land use change or on an adjacent public street or highway right of way not less than ten days before the date set for the public hearing.

<sup>1</sup> If the proposed text amendments are adopted, public hearings will no longer be held on only a quarterly basis. Because of this, the text in Section 2.3.7 (A) (B) and (C) becomes obsolete which means that the text in this section (2.3.4) is effectively no longer relevant. Amendments to the Comprehensive Plan could be heard at any of the public hearings that will be designated each year for UDO/Comprehensive Plan-related items. Note that all subsequent subsections on 2.3 will be renumbered with the removal of Section 2.3.4.

<sup>2</sup> The official name of the map was clarified/changed on February 7, 2012.

- (1) When multiple parcels are included within a proposed ~~Land Use Plan (map)~~ **Future Land Use Map** amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.
- (E) In the case of amendments to the ~~Land Use Plan (map)~~ **Future Land Use Map**, written notice of the public hearing shall be sent by first-class mail to all property owners, as listed in the Orange County tax records, whose property is affected (property that is included in the proposed ~~land-use-plan~~ **Future Land Use Map** amendment) and all property owners within 500 feet. Said notice shall be mailed at least 14 days, but not more than 25 days, prior to the date of the public hearing.

### 2.3.7 Consideration of Amendments<sup>3</sup>

- ~~(A) Principal amendments shall generally only be considered once each year at the quarterly public hearing in February.~~
- ~~(B) If a principal amendment is scheduled by the Board of County Commissioners for other than the February quarterly public hearing, it shall be scheduled during one of the quarterly public hearings held in May, August, and November.~~
- ~~(C) Secondary amendments may be considered four times each year at the quarterly joint public hearings in February, May, August, and November.~~
- (D) A proposed amendment may be considered in conjunction with a rezoning request for the same property if the requests are in compliance with an adopted small area plan.
- (E) Requests for a rezoning not in compliance with an adopted small area plan, conditional use district, and/or special use permit may only be considered at subsequent hearings or meetings following approval of the proposed amendment to the Comprehensive Plan.

### 2.3.8 Application Requirements

#### (A) Generally

- (1) All applications for amendments to the Comprehensive Plan shall be submitted on forms supplied by the Planning Department and shall be signed.
- (2) Three copies of the application shall be submitted to the Planning Director.
- (3) Before accepting any amendment application, the Planning Director shall ensure that it contains all required information, as specified in this Ordinance. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance, shall not be accepted by the Planning Director, but shall be returned to the applicant, with a notation by the Planning Director of the deficiencies in the application.

#### (B) Contents of Application

Applications for amendments to the Comprehensive Plan, without limiting the right to file additional material, shall contain at least the following:

- (1) For amendments to the ~~Land Use Plan (map)~~ **Future Land Use Map** within the Land Use Element, a map at a legible scale adequately illustrating the land which would be covered by the proposed map amendment, and a complete list of Property Identification Numbers (PIN) for the properties;

<sup>3</sup> If the proposed text amendments are adopted, public hearings will no longer be held on only a quarterly basis. Because of this, the text in (A) (B) and (C) becomes obsolete. Automatic renumbering of (D) and (E) to (A) and (B) will occur upon deletion.

- (2) For amendments to the Comprehensive Plan text, a copy of the existing text provision(s) which the applicant proposes for amendment, and a written statement which describes in detail changes which the applicant proposes to make to the text of the Comprehensive Plan and the rationale for the proposed amendment consistent with the standards established in this Ordinance; and
- (3) All other circumstances, factors and reasons which the applicant offers in support of the proposed Comprehensive Plan amendment.

### 2.3.9 Analysis and Recommendation

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The Planning Director shall cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners.

### 2.3.10 Planning Board Review

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- (A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.
- (B) The Board of County Commissioners ~~may~~ shall direct the Planning Board to provide a recommendation by a date certain<sup>4</sup>. ~~In no case shall the date certain be less than 30 calendar days<sup>5</sup>. If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings unless the Board of County Commissioners grants an extension.~~
- (C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B), the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.
- (D) ~~Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.<sup>6</sup>~~
- (E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.

### 2.3.11 Action by Board of County Commissioners

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- (A) The Board of County Commissioners shall not consider enactment of the proposed amendment until the Planning Board either makes its recommendation or takes no action on the application as prescribed in this section.
- (B) In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.

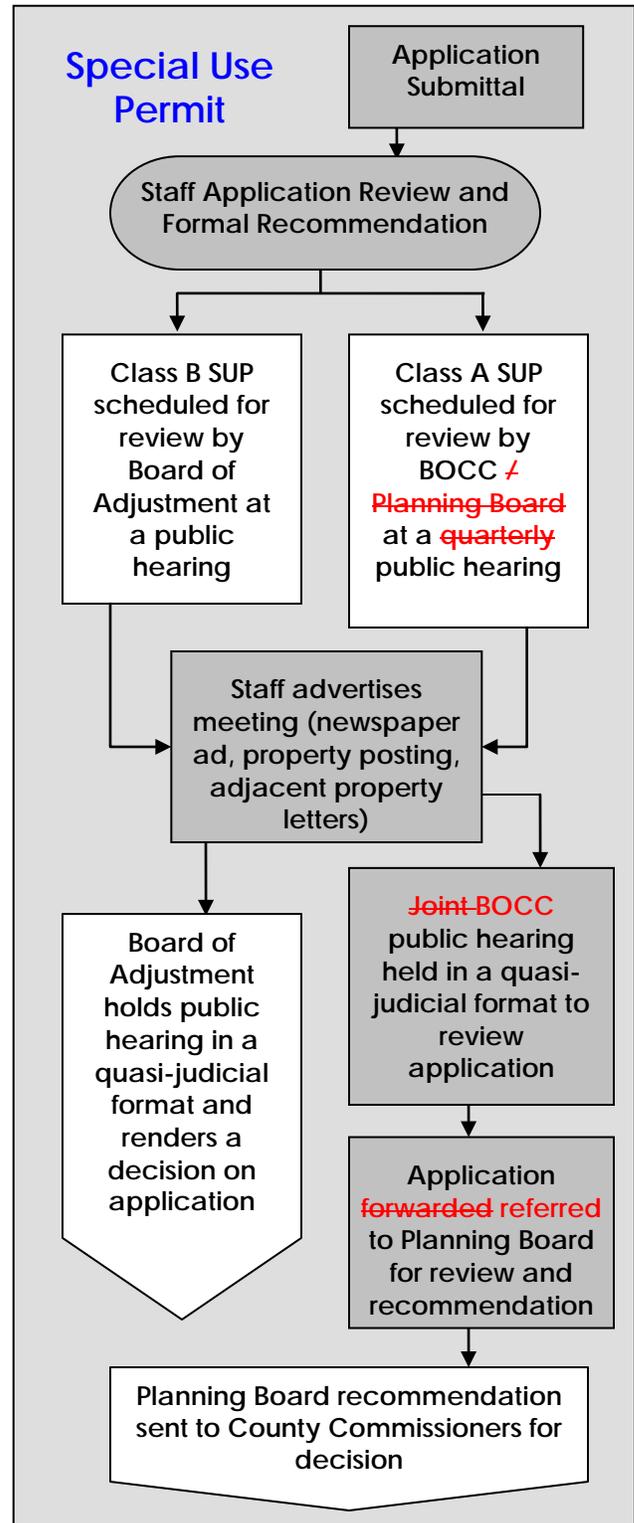
<sup>4</sup> It has been the County's practice for several years to hold the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. A determination was made by the former County attorney several years ago that this practice was necessary in order to meet State requirements for the public hearing process.

<sup>5</sup> NCGS §153A-344 states that: Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within **30 days of referral of the amendment** to that board, the board of county commissioners may proceed in its consideration of the amendment without the planning board report. The board of commissioners is not bound by the recommendations, if any, of the planning board.

<sup>6</sup> This section is irrelevant due to the practice of holding the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. (E) will be renumbered (D).

(B) Applications shall include:

- (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.
- (2) The name(s) and address(es) of the owner(s) of the property involved.
- (3) Relevant information needed to show compliance with the general and specific standards governing the Special Use (See Articles 5 and 6).
- (4) For Class A Special Uses 26 copies of the site plan, and for Class B Special Uses 10 copies of the site plan, prepared by a registered North Carolina land surveyor, landscape architect, architect, or engineer, which shall contain the information listed in Section 2.5.
- (5) If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.
- (6) A list of all parcels located within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.
- (7) Elevations of all structures proposed to be used in the development.
- (8) For Class A Special Uses 26 copies and for Class B Special Uses 10 copies of the Environmental Assessment and/or Environmental Impact Statement, if required by Section 6.16.



- ~~(D) The chair or presiding officer may take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the application, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include:~~
- ~~(1) Barring the presentation of obvious hearsay evidence,~~
  - ~~(2) Barring the presentation of non-expert opinion,~~
  - ~~(3) Interrupting digressions into immaterial testimony,~~
  - ~~(4) Interrupting repetitive testimony,~~
  - ~~(5) Reasonably limiting the time allotted each witness or cross-examination,~~
  - ~~(6) Providing for the selection of spokespersons to represent groups of persons with common interests,~~
  - ~~(7) Interrupting personal attacks, and/or~~
  - ~~(8) Ordering an end to disorderly conduct.~~
- ~~(E) Where the Board finds compliance with the general standards, specific rules governing the specific use, and that the use complies with all required regulations and standards, the application must be approved unless the Board shall also find, in some specific manner, that:~~
- ~~(1) the use will not maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.~~
- ~~(F) Those opposing approval of the application on the grounds that the use will not promote the public health, safety and general welfare shall have the burden of establishing, by competent material and substantial evidence, the specific manner in which the proposed use does not satisfy the requirements for approval of the application for a Special Use.~~

### 2.7.8 Review and Decision

- (A) For Class A Special Use permits, the following shall apply:
- (1) The Board of County Commissioners ~~and Planning Board~~ shall review the application during a regularly scheduled public hearing.
  - (2) Following review at a public hearing, the Special Use permit application shall be referred to the Planning Board for its consideration and recommendation.
  - (3) The Board of County Commissioners ~~may shall~~ direct the Planning Board to provide a recommendation by a date certain<sup>7</sup>. ~~If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled meetings.~~
  - (4) ~~If the Planning Board fails to make a recommendation within the time allotted within subsection (3) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.~~<sup>8</sup> The Planning Board shall make a recommendation based upon information entered into the record at the public hearing but shall not make the findings required in Section 5.3.2(A).<sup>9</sup>

<sup>7</sup> It has been the County's practice for several years to hold the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. A determination was made by the former County attorney several years ago that this practice was necessary in order to meet State requirements for the public hearing process.

<sup>8</sup> This section is irrelevant due to the practice of holding the public hearing open until a date/time certain in order to receive the Planning Board's recommendation.

<sup>9</sup> Because the Planning Board will not officially attend the quasi-judicial public hearing (individual members may choose to attend but a quorum of Planning board members will not be necessary in order to conduct the public

- (5) After receipt of any Planning Board recommendation and closure of the public hearing, the Board of County Commissioners shall take action upon the application. This action shall be one of the following:
  - (a) Approval;
  - (b) Approval with conditions; or
  - (c) Denial.
- (B) For Class B Special Use Permits, the following shall apply:
  - (1) The Board of Adjustment shall review the application during a regularly scheduled public hearing.
  - (2) The Board of Adjustment shall conduct the hearing in accordance within the provisions detailed in this Section as well as those contained within Section 2.12.
  - (3) After completion of the public hearing, the Board of Adjustment shall take action upon the application. This action shall be one of the following:
    - (a) Approval;
    - (b) Approval with conditions; or
    - (c) Denial.

### **2.7.9 Standards of Evaluation**

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The following specific standards shall be used in deciding on an application:

- (A) The project meets all applicable design standards and other requirements of this Ordinance.
- (B) The development can reasonably be completed within the vesting period requested, if any.
- (C) Where vesting in excess of two years is requested, the project is located in an area where current issues under study do not involve potential amendments to the Comprehensive Plan and/or this Ordinance.

### **2.7.10 Required Findings**

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- (A) A resolution or motion to approve the application must include the findings of fact and conclusions of law that support the decision. Any proposed conditions of approval must also be included in the resolution or motion to approve the application.
- (B) A resolution or motion to deny the application must state findings of fact and conclusions of law that support the decision.
- (C) If a resolution or motion to approve the application fails, the application is deemed denied. Those members voting against the resolution or motion must state which of the conclusions of law they could not reach as well as findings of fact on which their inability to reach the conclusions is based.

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hearing), the Planning Board may not make findings. However, the Planning Board may make a general recommendation to the BOCC. Alternatively, the Planning Board could be removed from the approval process for Class A Special Use Permits (and apparently was not part of the process more than 10 years ago, but was made part of the process via procedural policy several years ago which became codified when the UDO was adopted in 2011). However, it could be problematic to implement this idea from a procedural standpoint when a project might require both a rezoning and an SUP (as in the case of Conditional Use). For this reason, staff is recommending that the Planning Board recommendation on Class A SUPs would be a general recommendation rather than one that requires that findings be made.

- (G) For amendments to the Special Flood Hazard Area Overlay District, pertaining to a Letter of Map Amendment:
- (1) An elevation certificate with either an MT-1, MT-2, or MT-EZ (forms available through FEMA), or
  - (2) A “No-Impact” analysis for a Letter of Map Revision.
- (H) All other circumstances, factors and reasons that the applicant offers in support of the proposed Zoning Atlas and/or Unified Development Ordinance text amendment.

#### 2.8.4 Applications for Amendment – Joint Planning Area

Applications for amendments to the Orange County Unified Development Ordinance and Zoning Atlas for the purpose of incorporating the provisions of the Chapel Hill Land Development Ordinance (and Zoning Maps) and/or the Carrboro Land Use Ordinance (and Zoning Maps) shall be processed as specified herein and as specified in the Joint Planning Agreement adopted November 2, 1987, and as amended from time to time.

Any text amendments adopted by Orange County shall be adopted by reference as though fully set forth herein. Any map amendments adopted by Orange County shall be officially denoted on the County Zoning Atlas. Where there is inconsistency between the amendment procedures contained herein and those contained in the Joint Planning Agreement, the provisions of the Joint Planning Agreement shall apply.

#### 2.8.5 Analysis and Recommendation

The Planning Director shall cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners.

#### 2.8.6 Public Hearing Required

A public hearing shall be held before adoption of any proposed Zoning Atlas Amendment and/or text amendment to this Ordinance. The Board of County Commissioners ~~and the Planning Board~~ shall hear applications and receive public comment for Zoning Atlas amendments and/or text amendments to this Ordinance ~~in a Quarterly Public Hearing at one of the public hearings for UDO/Comprehensive Plan-related items; dates for said public hearings shall be designated each year in accordance with Section 2.8.12.~~

#### 2.8.7 Notice of Public Hearings

- (A) Notice of the public hearing to review the application and receive public comment shall be published at least twice in a newspaper of general circulation in the county, stating the time and place of the hearing and the substance of the proposed amendment.
- (B) Said notice shall appear in said newspaper for two successive weeks with the first notice appearing not less than ten days nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.
- (C) In the case of amendments to the zoning atlas, the Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.
- (D) In the case of amendments to the Zoning Atlas, written notice shall be sent by certified mail to the affected property owner and all adjacent property owners at least 15 days, but not more than 25 days, before the public hearing date. Adjacent property owners are those whose names and addresses are currently listed in the Orange County tax records and whose property lies within 500 feet of the affected property.

- (E) If amendments to the Zoning Atlas are proposed by the County, notice shall be sent by first class mail to all affected property owners and to all adjacent property owners within 500 feet as provided in (D) above.
- (F) The Planning Director shall certify the mailing of all notices to the Board of County Commissioners.

### 2.8.8 Planning Board Review

- (A) Following the public hearing, all proposed amendments shall be referred to the Planning Board for consideration and recommendation.
- (B) The Board of County Commissioners ~~may shall~~ direct the Planning Board to provide a recommendation by a date certain. ~~If the Board of County Commissioners does not so direct, the Planning Board shall make its recommendation within three regularly scheduled Planning Board meetings. In no case shall the date certain be less than 30 calendar days.~~<sup>10</sup>
- (C) If the Planning Board fails to make a recommendation within the time allotted in subsection (B) above, the application shall be forwarded to the Board of County Commissioners without a Planning Board recommendation.
- (D) ~~Amendments initiated by Orange County shall not be subject to time limitations other than those specified by the Board of County Commissioners during the public hearing process.~~<sup>11</sup>
- (E) Evidence not presented at the public hearing may be submitted in writing to the Planning Board for consideration prior to the Planning Board's recommendation to the Board of County Commissioners. The Planning Board may consider additional oral evidence only if it is for the purpose of presenting information also submitted in writing.

### 2.8.9 Action by Board of County Commissioners

- (A) The Board of County Commissioners shall not consider enactment of the proposed amendment until the Planning Board either makes its recommendation or takes no action on the application as prescribed in Section 2.8.8(C).
- (B) In making its decision, the Board of Commissioners shall consider all relevant evidence presented at the public hearing and any submitted written evidence that was considered by the Planning Board in making its recommendation.

### ~~2.8.10 Text Revisions Pertaining to Soil Erosion and Sedimentation Control Provisions~~

- ~~(A) The Erosion Control Officer shall review all of the North Carolina Sedimentation Control Commission's revisions to the State's Model Soil Erosions and Sedimentation Control Ordinance and, within 90 days of receipt of the recommended revisions, submit draft amendments to the North Carolina Sedimentation Control Commission for its consideration and comments.~~
- ~~(B) Within 150 days after receipt of the North Carolina Sedimentation Control Commission's comments, Orange County shall formally consider proposed amendments and, to the extent deemed necessary by the Board of County Commissioners, incorporate the amendments into this Ordinance.~~
- ~~(C) Text amendments to this Ordinance for soil erosion and sedimentation control provisions shall comply with the requirements in effect for any other text amendment.~~

<sup>10</sup> See footnotes 4 and 5 for further explanation.

<sup>11</sup> This section is irrelevant due to the practice of holding the public hearing open until a date/time certain in order to receive the Planning Board's recommendation. (E) will be renumbered (D).

### 2.8.11 Text Revisions Pertaining to Stormwater Provisions

- (A) The Erosion Control Officer shall review all of the State Environmental Management Commission's revisions to the State's Model Stormwater Ordinance and, within 90 days of receipt of the recommended revisions, submit draft amendments to the State Environmental Management Commission for its consideration and comments.
- (B) Within 150 days after receipt of the State Environmental Management Commission's comments, Orange County shall formally consider proposed amendments and, to the extent deemed necessary by the Board of County Commissioners, incorporate the amendments into this Ordinance.
- (C) Text amendments to this Ordinance for stormwater provisions shall comply with the requirements in effect for any other text amendment.

### 2.8.12 Setting Public Hearing Dates

- (A) In the fall of each year the Board of County Commissioners shall adopt a meeting schedule for the next calendar year that designates a minimum of eight dates, spread throughout the year, for potential public hearings for UDO/Comprehensive Plan-related items.
- (B) The Planning Director shall publish application due dates for each potential public hearing in a timely manner after the Board of County Commissioners adopts its meeting schedule.

## SECTION 2.9: CONDITIONAL DISTRICTS

### 2.9.1 Conditional Use District (CUD)

- (A) **Generally**
  - (1) Any use permitted under the CUD process shall conform to all applicable development regulations for the corresponding general use zoning district as well as any specific development standards outlined within this Ordinance.
  - (2) The Board of County Commissioners, in reviewing a CUD application, may impose such reasonable conditions upon approval of a CUD request as will afford protection of the public health, safety, and general welfare, ensure that substantial justice is done, and ensure equitable treatment.
  - (3) Only those conditions mutually agreed to by the applicant and the Board of County Commissioners may be imposed on a CUD application.
  - (4) Within the Economic Development Districts (EDDs), there are specific uses that require approval of a CUD. These uses are noted on the Table of Permitted Uses – Economic Development Districts (Section 5.2).
- (B) **Applications**

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

  - (1) Zoning Atlas amendment (Section 2.8),
  - (2) Class A Special Use Permit (Section 2.7), and
  - (3) The provisions of this Section.
- (C) **Submittal Requirements**
  - (1) In addition to the CUD application form, an applicant shall also submit the following information:

- (1) That, in the opinion of the Planning Director, a stay would cause imminent peril to life and/or property.
- (2) That the situation appealed from is transitory in nature and, therefore an appeal would seriously interfere with enforcement of the Ordinance.
- (3) In either instance, the Planning Director shall place in the determination facts to support the conclusion.

#### 2.11.4 Review Procedures

- (A) Applications for an appeal of an interpretation shall be reviewed and acted upon by the Board of Adjustment in accordance with the procedures contained in Section 2.12 of this Ordinance.
- (B) The conduct of the hearing shall be consistent with the provisions of Section 2.12 of this Ordinance.
- (C) The Planning Director shall complete an assessment of the application and provide a recommendation on the disposition of the application. The assessment shall include all relevant facts utilized in rendering the disputed decision and the rationale for the interpretation made by the Planning Director.
- (D) The assessment shall be introduced at the hearing and become part of the record.
- (E) Upon hearing all evidence associated with the application, the Board of Adjustment shall close the hearing and render a decision on the matter to affirm, modify, or reverse the decision of the Planning Director.

#### 2.11.5 Findings of Fact

The Board of Adjustment shall provide a detailed rationale for its decision in the form of an order to affirm, modify, or reverse the decision of the Planning Director. This order shall provide the necessary justification for the Board's action based on the testimony and evidence entered into the record during the hearing.

#### 2.11.6 Notice Requirements

Notice requirements shall follow Section 2.12.6(A). Other subsections of Section ~~2.2.6~~ 2.12.6<sup>12</sup> are not applicable to applications for an appeal of an interpretation.

## SECTION 2.12: BOARD OF ADJUSTMENT

#### 2.12.1 General Provisions

- (A) The Board shall act on all applications before it.
- (B) The Board shall act on any appeal of a Stop Work Order issued by the Planning Director at its next regularly scheduled meeting or at a special meeting called for that purpose.

#### 2.12.2 Quasi-Judicial Proceedings

- (A) The Board of Adjustment acts in a quasi-judicial capacity. However, it is not intended that its proceedings be conducted as formally as those before courts.
- (B) The rules of procedure and evidence set forth in this Ordinance shall be followed to protect the interests of all parties and the public.
- (C) The presiding officer shall administer oaths to all witnesses and shall make rulings necessary to preserve fairness, order, or proper decorum in any matter before the Board of Adjustment.

<sup>12</sup> Typographical error that staff recommends correcting as part of this amendment package.

- (c) The facility shall be removed within 12 months from the date the applicant ceases use of the facility.
- (d) Once the infrastructure is removed the property, the owner shall obtain the necessary Erosion Control permits to re-stabilize the property. The time frame for completion shall be determined by the Orange County Erosion Control Officer.
- (e) The owner shall provide financial security in form and amount acceptable to the County to secure the expense of dismantling and removing said structures.
- (f) Upon removal of the facility, the Department shall cause a notice to be recorded within the Orange County Registrar of Deeds office indicating that the Class A Special Use Permit has been revoked.

## SECTION 5.10: STANDARDS FOR TELECOMMUNICATION FACILITIES

### 5.10.1 Intent

The regulations contained herein are designed to provide for the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services through the community with the goal of establishing reliable wireless service to the public, governmental agencies, and first responders in a manner that provides for the public safety and general welfare of its citizens.

### 5.10.2 Master Telecommunications Plan ("Plan")

- (A) The Plan is intended to assist providers in their search for suitable locations to build their service network. The County may develop the Plan (map), which would display locations within the County's zoning jurisdiction where property owners have expressed formal, written, interest in allowing construction of telecommunications equipment.
- (B) Information that may be shown on the base Plan will include, but not limited to:
- (1) Existing towers,
  - (2) Major transmission lines,
  - (3) County-defined Natural Areas,
  - (4) Historic properties,
  - (5) Scenic corridors,
  - (6) Known bird migratory patterns through the County,
  - (7) Voluntary Agricultural Districts, and
  - (8) Publicly-owned or quasi-public lands.
- (C) In order to participate in the Plan, all owner(s), or their legally binding representatives, shall submit an application on a form prepared by the Planning Department requesting inclusion.
- (D) All telecommunication providers who elect to construct facilities on properties in the Plan shall provide all necessary and requested information to the County's telecommunications consultant.
- (E) Modification of the Plan may be considered ~~annually at the February Quarterly Public Hearing. Any applicant requesting modification of the Plan shall make application to the Planning Director on or before December 1st of each year at any of the public hearings~~

designated for UDO/Comprehensive Plan-related items<sup>13</sup>. The fee for modifying the Plan shall be that as set forth in the Orange County Schedule of Fees.

- (F) Withdrawal from the Plan is permitted if any owner submits, to the Planning Director, a notarized statement requesting same. Upon receipt of the request, including any fee for modifying the Plan as set forth in the Orange County Schedule of Fees, the Planning Director shall inform interested parties that the property has been withdrawn from consideration. Removal of the property from the Plan shall be processed as a modification as detailed herein.

### 5.10.3 Annual Telecommunications Projection Meeting (ATPM)

#### (A) Purpose and Outcome

- (1) The purpose of the ATPM meeting is to allow for a complete review of collocation opportunities, address coverage issues, and discuss the location of needed telecommunication support structures with providers who intent on submitting development applications for action by the County. The intended outcome of the meeting is to allow the County and interested parties to develop a plan for facility deployment within the County that provides reasonable coverage based on the needs of the County and its residents, while minimizing the total number of needed telecommunication support facilities, including minimizing the intrusiveness of such facilities, and encouraging the development of a more efficient telecommunication network.
- (2) The intended outcome of the meeting is an understanding amongst the Planning Director and providers on areas of the County where telecommunication support facilities are needed and application request for the year should be focused.

#### (B) Applicability

- (1) By December 31<sup>st</sup> of each calendar year, telecommunication providers shall submit to the Planning Director a plan indicating proposed search rings for anticipated telecommunication support structures. This plan shall identify areas where providers are looking to locate facilities, as well as identify those areas of the County that are underserved by existing facilities.
- (2) As of the effective date of this Ordinance amendment any pending applications that have not received a zoning compliance permit or a special use permit shall meet all requirements of this Ordinance, including, but not limited to submission deadlines, application standards and processing, excluding the ATPM requirement.

#### (C) Meeting Specifics

- (1) The meeting shall occur by the end of January of each calendar year.
- (2) Attendees shall include all carriers and tower companies who have either filed applications the previous year or anyone who has expressed an interest in filing an application to construct a telecommunication support facility within the County.
- (3) The County shall notify each party of the date, time, and place of the meeting no later than 30 days prior to the meeting.
- (4) Those individuals/firms intent on submitting development applications are expected to attend the meeting. While a lack of attendance will not prevent the submittal of an application, it will prevent the applicant's ability to participate in the discussions outlining the areas of concentration for the location of

<sup>13</sup> Since the dates for public hearings may change from year to year if the public hearing process change amendments are adopted, it is not possible to pinpoint a date for hearings. Therefore, staff is suggesting that any entity that would like to modify the Master Telecom Plan be permitted to apply for any of the public hearing dates where UDO/Comprehensive Plan items can be considered.

**ORANGE COUNTY  
PLANNING BOARD ORDINANCE REVIEW COMMITTEE  
ACTION AGENDA ITEM ABSTRACT  
Meeting Date: January 8, 2014**

**Action Agenda  
Item No. 3**

**SUBJECT:** Review of Proposed UDO Text Amendments Related to a new General Use Zoning District called Research Development and Applied Manufacturing (RDAM)

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**DEPARTMENT:** Planning and Inspections

**PUBLIC HEARING: (Y/N)**

No

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**ATTACHMENT(S):**

**INFORMATION CONTACT:**

1. Draft UDO Amendment Package
2. Land Use Comparison Chart

Michael D. Harvey, Planner III (919) 245-2597  
Jennifer Leaf, Planner I (919) 245-2599  
Craig Benedict, Director (919) 245-2575

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**PURPOSE:** To review and comment upon a Planning Director initiated UDO text amendment concerning the development of a new general use zoning district called Research Development and Applied Manufacturing (RDAM).

**BACKGROUND:** There is a concern over possible limitations in allowing light manufacturing activities on properties where research facilities are developed. While ancillary manufacturing/assembly activities would be allowed, in support of the principal 'research' land use, current regulations might restrict the allowable level of manufacturing that can occur on-site.

A research facility is allowed as a permitted use of property (i.e. administrative approval of a site plan) in the following general use zoning districts:

- a. Neighborhood Commercial (NC-2)
- b. Community Commercial (CC-3)
- c. General Commercial (GC-4)
- d. Office Institutional (O/I)
- e. Light Industrial (I-1)
- f. Medium Industrial (I-2)
- g. Heavy Industrial (I-3)
- h. Economic Development Buckhorn Higher Intensity (EDB-2)
- i. Economic Development Eno Higher Intensity (EDE-2)

We can foresee a situation where a research facility might have to move manufacturing activities off-site as the scope of the manufacturing operation might exceed what it considered an 'ancillary' or accessory activity or would have to apply for a Conditional Use permit, which also necessitates a Class A Special Use Permit.

Staff is proposing to revise the UDO to create a new general use zoning designation, specifically the Research Development and Applied Manufacturing (RDAM), in an effort to address this concern with the goal of allowing research and manufacturing activities to occur on one parcel with a more simple approval process. The district seeks to blend aspects of the O/I and I-1 districts to allow for expanded manufacturing operations associated with research/development and office activities.

The Research Triangle Park (RTP) has a similar combined zoning district. New industries no longer have the luxury of multiple-location class A office, research and development, manufacturing and distribution space. Efficiencies and enhanced communication can be achieved in one multi-function location.

The new RDAM district would be allowed within the Commercial Industrial Transition Activity Node (CITAN) land use classification where water/sewer service was already available or could be provided to serve the project.

Attachment 1 contains the proposed UDO text amendment. Staff is currently working to complete the UDO Amendment Outline Form and will be seeking approval of the form/process by the BOCC at its January 23, 2014 regular meeting. If the form is approved, the text amendment would be presented at the February 24, 2014 Quarterly Public Hearing.

Attachment 2 contains a comparison chart showing uses currently allowed within Orange County's current O/I general use zoning district as well as those uses within similar existing districts located within the Cities of Durham and Mebane (i.e. office, research, etc.).

Staff is discussing the proposal with the Planning Board in advance of the BOCC review of the amendment form in order to allow ORC input at a point in the process where input can shape the materials that go forward for public hearing.

County staff peer review will be on-going during the Planning Board review of the item. As a result, changes to the proposed text may be incorporated to address staff comments.

**FINANCIAL IMPACT:** The proposed text amendment is drafted by staff utilizing existing, budgeted, departmental funds. There is no need to additional budgetary outlay to process the proposed amendment.

**RECOMMENDATION(S):** The Planning Director recommends the Board review and comment on the proposed amendment package.

<b>RDAM</b> <b>RESEARCH, DEVELOPMENT</b> <b>AND</b> <b>APPLIED MANUFACTURING</b> <sup>1</sup>	<b>DIMENSIONAL AND RATIO STANDARDS</b>		
		Lot Size, min. (square feet)	R - CU [1] <sup>2</sup> NR NR-CU
<b>PURPOSE</b>  The purpose of the Research, Development and Applied Manufacturing District (RDAM) is to allow for the combination of office and ancillary, incidental, manufacturing supporting and connected with the office operation to occur on the same property.  The intent of the district is to allow for administrative offices, industrial manufacturing, and distribution to occur on one parcel of property to facilitate multi-modal businesses operations and avoid the need for multiple, divergent, properties to support a single operation.	Lot Width, min. (feet)	R-CU NR-CU NR	None 50
	Front Setback from ROW, min. (feet)	R-CU NR - CU NR	None 25
<b>APPLICABILITY</b>  This district will usually be applied where the following conditions exist:  1. Site is located in areas designated by the adopted Comprehensive Plan as Commercial-Industrial Transition Activity Nodes.  2. Water and sewer mains are existing at the site or are to be made available during the development process.	Side Setback, min. (feet)	R-CU NR	None 10 [2]
	Rear Setback, min. (feet)	R-CU NR NR - CU	None 10 [2] None [2]
<b>DIMENSIONAL STANDARDS NOTES:</b>  [1] R = residential, NR = non-residential, CU = conditional use. [2] Required side and rear setbacks adjacent to residentially zoned land shall be equal to the required side or rear setback of the adjacent residential district. [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks.	Height, max. (feet)		60 [3]
	Floor Area Ratio, max.	R - CU NR NR-CU	.40 .60
	Required Open Space Ratio, min.		.30
	Required Livability Space Ratio, min.	R-CU	.52
	Required Recreation Space Ratio, min.	R	.111
		R-CU	.114
	Gross Land Area, <sup>3</sup> min./max. (square feet)	R-CU	5,000/ none
NR-CU		87,120/ none	
Required Pedestrian/Landscape	NR NR-CU	.05	

<sup>1</sup> Staff has utilized the dimensional and ratio standards for the existing O/I general use district as a benchmark for the standards in the RDAM district.

<sup>2</sup> There is still some internal assessment on the need to allow for residential through the Conditional Use process. It is highly likely staff's final proposal will not allow residential in any form in this district to ensure we are not encouraging the development of incompatible land uses in proximity to one another.

<sup>3</sup> Staff is still reviewing appropriate standards governing minimum and maximum required gross land area for projects developed within the proposed RDAM district.

Ratio, min.

**RDAM DISTRICT SPECIFIC DEVELOPMENT STANDARDS**

1. Uses shall be restricted to those indicated for the RDAM District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8). Additionally, non-residential uses are restricted based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.3 for land use restrictions.
2. Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance. See Sections 6.2.5 and 6.2.6 if more than one principal use or principal structure is proposed on a non-residential zoning lot.
3. The residential density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).
4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Sections 4.2.5 and 4.2.6 for a breakdown of the allowable impervious surface area. Additionally, Section 4.2.6 may require a larger lot size for non-residential uses than is contained in the Dimensional and Ratio Standards Table.
5. For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.
6. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
7. Subdivisions proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
8. Subdivisions in the Economic Development, Commercial and/or Industrial Nodes are subject to the procedure outlined in Section 2.16.
9. Normally, the maximum amount of land zoned to this district shall not exceed five acres.
10. The site shall be located near major transportation corridors and have access to adequate public roadway network.

# TABLE OF PERMITTED USES

## Table of Permitted Uses – General Use Zoning Districts

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																						
* = PERMITTED USE    A = CLASS A SPECIAL USE    B = CLASS B SPECIAL USE    Δ = SUBJECT TO SPECIAL STANDARDS																						
USE TYPE	GENERAL USE ZONING DISTRICTS																					
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	RDA M <sup>1</sup>	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E)																						
<b>AGRICULTURAL USES</b>																						
Agricultural Services Uses													*				*					
Commercial Feeder Operation ~		*															*		*			
Farm Equipment & Sales ~													*	*			*		*	*		
Feed, Seed, Storage & Processing ~																	*		*	*		
Riding Stables ~	B	B	B									B	B				B					
Stockyards ~																	*					
<b>CHILD CARE &amp; EDUCATIONAL FACILITIES</b>																						
Center in a Residence for 3 to 12 Children	*	*	*	*	*	*	*	*	*	*	*	*		*	*							
Child Care Facilities	B	B	B	B	B	B	B	B	B	*	*	*	*	*	*	*	*					
Libraries										*	*	*	*		*	*						
Non-Profit Educational Cooperative		A																				
Schools: Dance, Art & Music										*	*	*	*	*	*							
Schools: Elementary, Middle & Secondary	A	A	A	A	A	A	A	A	A						A	A						
Schools: Vocational												*	*		*	*			*	*		
Universities, Colleges & Institutes	*	*	*									*	*		*	A						
<b>COMMERCIAL USES</b>																						

<sup>1</sup> Proposed Research Development and Applied Manufacturing (RDAM) Zoning District, based upon City of Mebane’s current OI District.



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~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E)																						
Retail, Class 1										*	*	*	*	*								
Retail, Class 2											*	*	*	*								
Retail, Class 3												*	*									
Storage of Goods, Outdoor ~														*					*	*	*	
Storage of Warehousing: Inside Building													*	*	*	*			*	*	*	
Studio (Art)										*	*	*	*		*				*	*	*	
Tourist Home						*	*	*	*						*							
Wholesale Trade ~												*	*	*	*	*			*	*	*	
<b>EXTRACTIVE USES</b>																						
Extraction of Earth Products ~		A															A		A	A	A	
<b>GOVERNMENTAL USES</b>																						
Governmental Facilities & Office Buildings	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*			*	*	*	*
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments	*	*	*	*	*	*	*	*	*		*	*	*	*	*	*	*		*	*	*	
Military Installations (National Guard & Reserve Armory) ~											*	*	*		*							
<b>MANUFACTURING, ASSEMBLY &amp; PROCESSING</b>																						
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets												*			*	*			*	*	*	
Industrial, Heavy ~																*					*	
Industrial, Light ~																*		*	*	*	*	
Industrial, Medium ~																*			*	*	*	

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~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E)																						
Printing & Lithography												*	*	*		*			*	*	*	
Sawmills ~																	*					
<b>MEDICAL USES</b>																						
Animal Hospitals; Veterinarians												*	*	*	*	*	*			*	*	*
Health Services: Over 10,000 Sq. Ft. ~													*			*						
Health Services: Under 10,000 Sq. Ft.										*		*	*	*	*	*						
Hospitals ~													*		*	*						
<b>RECREATIONAL USES</b>																						
Botanical Gardens & Arboretums	*	*	*	*	*	*	*	*	*	*	*	*	*		*		*		*	*	*	*
Camp/Retreat Center	B	B	B																			
Golf Driving and Practice Ranges		B										*	*						*			
Parks, Public & Non-Profit	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*			*	*	*	*
Recreational Facilities (Non-Profit)	B	B	B	B	B	B	B	B	B	B	B	B	B		B	*			B	B	B	
Recreational Facilities (Profit)												*	*			*			*			
Golf Course	A	A	A	A	A	A	A	A	A	A	A	A	A		A				A	A	A	
<b>RESIDENTIAL USES</b>																						
Dwelling; Mobile Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*							
Dwelling; Multiple Family				*	*	*	*	*	*	*	*	*	*	*	*							
Dwelling; Single-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*							
Dwelling; Two-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*							
Family Care Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*							
Group Care Facility	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B							







**Table of Permitted Uses – General Use Zoning Districts**

\* = Permitted Use      A = Class A Special Use      B = Class B Special Use

Use Type	ORANGE COUNTY O/I	ME	MEBANE OI PERMITTED USES	DU	DURHAM OI PERMITTED USES	PROPOSED RDAM
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E)						
<b>Agricultural Uses</b>						
Agricultural Services Uses						
Commercial Feeder Operation ~						
Farm Equipment & Sales ~						
Feed, Seed, Storage & Processing ~						
Riding Stables ~						
Stockyards ~						
<b>Child Care &amp; Educational Facilities</b>						
Center in a Residence for 3 to 12 Children	*			*	Daycare Home	
Child Care Facilities	*	*	Day Care Centers	*	Daycare Facility	*
Libraries	*	*	Libraries			*
Non-Profit Educational Cooperative						
Schools: Dance, Art & Music	*					
Schools: Elementary, Middle & Secondary	A	A	Elementary or Secondary School	*	School, Elementary School, middle or high	A
Schools: Vocational	*	*	Voational, Business or Secretarial School	*	Vocational, trade or business	*
Universities, Colleges & Institutes	*	A	College, University, Technical Institute	*	Universities or colleges	A
<b>Commercial Uses</b>						
Banks & Financial Institutions		*	Banks, Savings and Loan, or Credit Union / Stock, Security, and Commodity Brokers			*
Beauty & Barber Shops		*	Barber Shop, Beauty Shop, Cosmetic Tattoos			

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Use Type	ORANGE COUNTY O/I	ME	MEBANE OI PERMITTED USES	DU	DURHAM OI PERMITTED USES	PROPOSED RDAM
Bed & Breakfast		*	Bed and Breakfast or Tourist Home			
Bed & Breakfast Inn		*	Bed and Breakfast or Tourist Home	*	Bed and Breakfast	
Country Inn						
Drive In Theaters ~						
Funeral Homes ~		*	Funeral Home, Crematorium			
Garden Center (On Premises Sales)						
Greenhouses (No On Premises Sales)						
Greenhouses (On Premises Sales)						
Hotels & Motels ~				*	Hotel, Motel, and extended stay residences	*
Junkyards ~						
Kennels, Class II ~						
Laundry & Dry Cleaning Services						
Massage, Business of						
Nightclubs, Bars, Pubs						
Offices & Personal Services, Class 1	*	*	Offices, General; Insurance Agency, with no On-Site Claims Inspector; Florist; School Administration Facility; Photography, Commercial Studio; Photography and Duplicating Services; Office Use not Listed Elsewhere; Optical Good Sales	*	All Offices	*
Offices & Personal Services, Class 2	*	*		*	All Offices	*
Offices & Personal Services, Class 3	*	*		*	All Offices	*
Repair Service Electronic & Appliance		*				*
Restaurants: Carry Out						

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Use Type	ORANGE COUNTY O/I	ME	MEBANE OI PERMITTED USES	DU	DURHAM OI PERMITTED USES	PROPOSED RDAM
Restaurants: Drive In						
Restaurants: General						
Retail, Class 1		*	Bookstore, except Adult Bookstore			
Retail, Class 2		*	Bookstore, except Adult Bookstore			
Retail, Class 3		*	Bookstore, except Adult Bookstore			
Storage of Goods, Outdoor ~						
Storage of Warehousing: Inside Building	*					*
Studio (Art)	*			*	Art, music, dance, photographic studio or gallery	
Tourist Home	*	*	Bed and Breakfast or Tourist Home			
Wholesale Trade ~	*					*
<b>Extractive Uses</b>						
Extraction of Earth Products ~						
<b>Governmental Uses</b>						
Governmental Facilities & Office Buildings	*	*	Government Office	*	All government facilities	*
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments	*	*	Fire Station/EMS/Police Stations	*	All government facilities	*
Military Installations (National Guard & Reserve Armory) ~	*			*	All government facilities	
<b>Manufacturing, Assembly &amp; Processing</b>						

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Use Type	ORANGE COUNTY O/I	ME	MEBANE OI PERMITTED USES	DU	DURHAM OI PERMITTED USES	PROPOSED RDAM
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets	*					*
Industrial, Heavy ~						
Industrial, Light ~						*
Industrial, Medium ~						*
Printing & Lithography						*
Sawmills ~						
<b>Medical Uses</b>						
Animal Hospitals; Veterinarians	*			*	Veterinary clinic, animal hospital, kennel	
Health Services: Over 10,000 Sq. Ft. ~				*	All Medical Facilities	*
Health Services: Under 10,000 Sq. Ft.	*			*	All Medical Facilities	*
Hospitals ~	*	*	Hospital	*	Hospitals	*
<b>Recreational Uses</b>						
Botanical Gardens & Arboretums	*			*	All parks and open areas	
Camp/Retreat Center		*	Retreat/Conference Center	*	Conference Center/Retreat House	
Golf Driving and Practice Ranges						
Parks, Public & Non-Profit	*	*	Public Park or Recreational Facility, Other	*	All parks and open areas	
Recreational Facilities (Non-Profit)	B	*	Physical Fitness Center, Training Center	*	All parks and open areas	
Recreational Facilities (Profit)		*	Private Club or Recreational Facility, Other			
Golf Course	A	B	Golf Course with Country Club	*	All parks and open areas	
<b>Residential Uses</b>						

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Dwelling; Mobile Home						
Dwelling; Multiple Family	*			*	Townhouse Multiplex/apartment	
Dwelling; Single-Family						
Dwelling; Two-Family						
Family Care Home	*					
Group Care Facility	B	*	Group Care Facility	*	Group Home	
Rehabilitative Care Facility		*	Nursing Home	*	Diet House (?)	
Residential Hotel (Fraternities, Sororities, and Dormitories) ~						
Rooming House	*			*	Extended Stay Residence	
<b>Telecommunications</b>						
Telecommunication Tower – Stealth (75 feet or shorter)	*	*	Communications Towers for Public Safety Purposes	*	Wireless communication facility	
Telecommunication Towers (Over 75 feet and under 200 feet)	B	*	Communications Towers for Public Safety Purposes	*	Wireless communication facility	
Telecommunication Towers (200 feet and higher)	A	*	Communications Towers for Public Safety Purposes	*	Wireless communication facility	
<b>Temporary Uses</b>						
Buildings, Portable	B	*	Temporary Portable Storage Containers			*
Temporary Mobile Home (Custodial Care)	B					

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Use Type	ORANGE COUNTY O/I	ME	MEBANE OI PERMITTED USES	DU	DURHAM OI PERMITTED USES	PROPOSED RDAM
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)		*	Temporary Construction, Storage, or Office; Real Estate Sales or Rental Office (with concurrent building permit for permanent building)			
<b>Automotive / Transportation</b>						
Bus Passenger Shelter	*					
Bus Terminals & Garages				*	Rail and Bus Terminal	
Motor Freight Terminals ~						
Motor Vehicle Maintenance & Repair (Body Shop) ~						
Motor Vehicle Repair Garage ~						
Motor Vehicle Sales / Rental (New & Used)						
Motor Vehicle Services Stations						
Parking As Principle Use, Surface or Structure				*	All commerical parking	
Petroleum Products: Storage & Distribution ~						
Postal & Parcel Delivery Services	*	*	Post Office			
<b>Utilities</b>						
Elevated Water Storage Tanks						B

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Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	A	A	Public Works and Public Utility Facilities Essential to the Immediate Area	*	Minor Utility	A
Electric, Gas, and Liquid Fuel Transmission Lines	B					
Water & Sanitary Sewer Pumping	*			*	Minor Utility	
Solar Array – Large Facility	B					B
Solar Array – Public Utility	A					
<b>Waste Management</b>						
Landfills (2 Acres or More)						
Landfills (Less Than 2 Acres) ~						
Waste Management Facility; Hazardous & Toxic						
<b>Miscellaneous</b>						
Accessory Uses	*	*	Accessory Uses and Structures (Customary)			*
Airports, General Aviation, Heliports, S.T.O.L ~		B	Accessory Dwelling Unit to an Office Use			
Assembly Facility Greater Than 300						*
Assembly Facility Less Than 300						*
Cemetery			Cemetery, Columbarium, or Mausoleum on Same Property as Church or Other Place of Worship	*	Cemeteries	
Church	*	*		*	Place of Worship	

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Use Type	ORANGE COUNTY O/I	ME	MEBANE OI PERMITTED USES	DU	DURHAM OI PERMITTED USES	PROPOSED RDAM
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	B	Civic, Social, and Fraternal Clubs and Lodges	*	Clubs and lodges	
Community Center	*	B	Community Center	*	All Community Service	
Crematoria ~						
Historic Sites Non-Residential/Mixed Use						
Kennels, Class I						
Research Facility ~	*					*
Research Lands & Installations, Non-profit						*
Special Events (Less than 150)		*	Temporary and Special Events not List Elsewhere; Carnivals and Fairs			*
<b>Uses not able to be categorized from Mebane and Durham</b>						
Upper-story residential				*		
Congregate living facility				*		
Auditoriums				*		
Museums or Art gallery		*	Museums or Art Gallery	*	Museums	
Stadium, arena				A		
Live/Work Combination Dwelling and Nonresidential Use		*				
ATM		*				
Caretaker Dwelling		*				
Fence, Wall		*				
Orphanage		*				
Arts and Crafts Show		*				

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Christmas Tree, Pumpkin, and Similar Seasonal Sales		*				