

MINUTES  
ORANGE COUNTY PLANNING BOARD  
FEBRUARY 4, 2015  
REGULAR MEETING

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**MEMBERS PRESENT:** Peter Hallenbeck (Chair), Cheeks Township Representative; Lydia Wegman (Vice-Chair), -At-Large Chapel Hill Township; Lisa Stuckey, Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township; Herman Staats, At-Large, Cedar Grove Township; James Lea, Cedar Grove Township Representative; Tony Blake, Bingham Township Representative; Laura Nicholson, Eno Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Bryant Warren, Hillsborough Township Representative;

**MEMBERS ABSENT:** None.

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

**AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL**

**AGENDA ITEM 2: ELECTION OF CHAIR AND VICE-CHAIR FOR 2015**

There was discussion about when members' terms expire and Tina Love read term information from a list.

**MOTION** by Buddy Hartley to reappoint Pete Hallenbeck as Planning Board Chair. Seconded by Tony Blake.

Buddy Hartley: I would also make a motion to keep the Vice-Chair.

Lisa Stuckey: I would like to not be the vice chair. I am Chair of the ABC Board and I think it would be good to get somebody else in here doing it as long as I'm chair of the ABC Board because it is extremely time consuming. I would suggest somebody else might be interested in doing this, so I'm going to bow out.

**MOTION** by Paul Guthrie move election by acclamation to reappoint Pete Hallenbeck as Planning Board Chair.

Lydia Wegman: I would be willing to serve as deputy chair but I'm happy to defer to someone else if they actively want it and are willing to do it.

Laura Nicholson: I think Tony would be good, he's always got something to say.

Tony Blake: Like Lisa, I'm on another board that consumes a lot of time so....

**MOTION** by Paul Guthrie move election by acclamation to appoint Lydia Wegman as Planning Board Vice-Chair.

**AGENDA ITEM 3: INFORMATIONAL ITEMS**

- a) Planning Calendar for February and March
- b) Quarterly Public Hearing on Thursday, February 19 (Planning Board attendance expected) – Draft Legal Ad attached
- c) Work session scheduled after the public hearing on February 19
  - Public Hearing Process changes
  - Unified Development Ordinance Private Road and Access Standards

- The Edge Subdivision in Chapel Hill

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**AGENDA ITEM 4: APPROVAL OF MINUTES  
DECEMBER 3, 2014 REGULAR MEETING**

**MOTION** by Bryant Warren to approve the December 3, 2014 Planning Board ORC Notes. Seconded by Tony Blake.  
**VOTE: UNANIMOUS**

**MOTION** by Bryant Warren to approve the December 3, 2014 Planning Board minutes. Seconded by Tony Blake.  
**VOTE: UNANIMOUS**

**AGENDA ITEM 5: CONSIDERATION OF ADDITIONS TO AGENDA**

**AGENDA ITEM 6: PUBLIC CHARGE**

**Introduction to the Public Charge**

The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development laws of the County. The general purpose of OCPB is to guide and accomplish coordinated and harmonious development. OCPB shall do so in a manner which considers the present and future needs of its citizens and businesses through efficient and responsive process that contributes to and promotes the health, safety, and welfare of the overall County. The OCPB will make every effort to uphold a vision of responsive governance and quality public services during our deliberations, decisions, and recommendations.

**PUBLIC CHARGE**

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

**AGENDA ITEM 7: CHAIR COMMENTS**

**AGENDA ITEM 8: EXTRATERRITORIAL JURISDICTION (ETJ) EXPANSION POLICY: To review a draft ETJ policy and provide comments on the proposed policy  
Presenter: Craig Benedict, Planning Director**

*Craig Benedict reviewed the abstract and background.*

Pete Hallenbeck: With regard to Hillsborough, 'easy to supply utilities' was easy cost or engineering?

Bryant Warren: Cost and some areas that weren't feasible to get water and sewer.

Pete Hallenbeck: I took these six considerations and encapsulated them. The first one says you must have a plan, you can't just do an ETJ because you think it would be fun. The second one is no satellite annex, no gerrymanders. The third one is that it has to be real and it has to align with infrastructure, there's a feasibility test there. The fourth one is a no tug of wars clause. The fifth one is you can't use an ETJ to get around the county or someone's rules that

109 you don't like. The last one is the rules for farms are different because there are state laws that kick in. That was my  
110 take on that. So now if people have questions for Craig.

111  
112 Paul Guthrie: Couple of things, on page 19 when you go through the submittal and the Planning Board review  
113 process you indiscriminately put 'will' in a few places and 'shall' in other places when you get down to the language  
114 between the City of Chapel Hill and the County, you may want to put 'shall' in more places than 'will'. That's old  
115 statute writing issues. The second general question in the planning process and the host jurisdiction and so forth,  
116 and this is a personal comment since it happened to me. The County Board of Commissioners appointed me to the  
117 Chapel Hill Planning Board. Chapel Hill Planning Board redesigned its membership and declined to make the  
118 appointment. Essentially they picked who they wanted, not who the County Commissioners wanted, so make sure of  
119 your language when you write the agreement, as to how you want that representation so it can't be gamed.

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121 Craig Benedict: I think what we'll also look at in the case of ETJ representation, are there distinct areas. I think one  
122 of the issues in Chapel Hill there's Rogers Road that should be represented. That's a new area and yet there's an  
123 area in southeast Chapel Hill which seems to be in your area that also wants representation because there is a  
124 different growth potential there.

125  
126 Paul Guthrie: In my case they appointed someone from Durham, on the east side.

127  
128 Craig Benedict: Let's take a look at the fine writing in this and make sure that doesn't happen.

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130 Tony Blake: When I read this it didn't seem to cover the eventuality where we have an ETJ from another city, like  
131 Durham or Mebane, into Orange County. Would we have a person sitting on a Durham Planning Board or something  
132 like that? Second comment, when you say 'shall' or 'will', I would also like to have a timeline in there. These people  
133 can't vote for the town council or what have you and they are disenfranchised. I think it should have a timeline of  
134 some sort to say that it will annex and these people will be given the right to vote or right to exercise their choices for  
135 a town government and the other thing was I always thought we should outline the services. In some cases in the  
136 ETJ, they extend the school system out there but they don't extend the water and sewer, they don't extend this, that  
137 and the other thing, and if you look at this SAPFO funding everybody in Orange County wants to talk about this being  
138 a school thing and it is primarily a school thing but it is also other infrastructure if you read the statute, it is also things  
139 like water and sewer, transportation it's those other adequate funding items that Orange County tends to put their  
140 blinders on and Chapel Hill tends to put their blinders on and say it's just schools. It would be good to have an  
141 outline of what services should be extended.

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143 Pete Hallenbeck: I'm fuzzy on the timeline concept.

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145 Tony Blake: For example, there are areas in the County that have been in the ETJ for 30 years or more and it seems  
146 to me as if those folks have been disenfranchised. People's property rights are being restricted by people they  
147 cannot vote for.

148  
149 Pete Hallenbeck: So you want a use it or lose it timeframe.

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151 Tony Blake: I want a use it or lose it timeframe, yes.

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153 Lisa Stuckey: I thought the legislature made it really hard to annex?

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155 Paul Guthrie: They have.

156  
157 Lisa Stuckey: I don't think a timeline would work.

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159 Tony Blake: They've made it more difficult for the towns to annex but they've made it easier for the developers to  
160 demand to be annexed.

161

162 Lisa Stuckey: Yeah, but maybe they don't want to pay the taxes. If bringing the services in means higher taxes, I'm  
163 not sure that's what they would want.

164  
165 Tony Blake: For example in the Mount Carmel area, would the town extend the water and sewer if they didn't plan to  
166 annex it and people who bought there must have known this, that annexation intent, and that's where it's gotten  
167 fuzzy.

168  
169 Craig Benedict: I think it leaves some problems for later, the whole fire district tax and who is going to service. It  
170 does leave some lingering problems.

171  
172 Paul Guthrie: As a resident in that neighborhood, I can tell you that's a much more complicated topic. There were  
173 false cost figures and the town manager of Chapel Hill's estimated cost to the town for annexing the area, was way  
174 below what the tax rate was supposed to be and the insurance companies had failed to recognize the fact there were  
175 fire plugs in the neighborhood and took almost half the tax so there were a lot of other issues going on.

176  
177 Tony Blake: All I'm saying is that without a timeline, some sort of use it or lose it piece, it leaves that sort of question  
178 festering and you end up with this sort of situation.

179  
180 Lisa Stuckey: On page 19, under Planning Board review, number 2, it says there will be a notification in a  
181 newspaper. I worry a little that people might not see a notice in the paper. Most of the time I think the County  
182 advertises in the News of Orange which no one in Chapel Hill ever reads, I mean no one, and the other one is the  
183 Durham Herald which almost no one reads as well. I guess my other question is do people pay attention to the those  
184 sufficiently. To have it really be effective notice.

185  
186 Craig Benedict: I guess acknowledging that there might be a more elaborate way, besides the newspapers, the  
187 Commissioners might say to mail it. I've noted it and I'll let the Commissioners know that if they want this stuff to be  
188 vetted at this level that a mail notice is probably more thorough. There's later public hearings too.

189  
190 Maxecine Mitchell: If you put signs up that's better than the newspaper.

191  
192 Pete Hallenbeck: The County needs to explore new ways to get the word out to everybody realizing how people get  
193 their information today.

194  
195 Lydia Wegman: Craig the point is to raise the issue. What level of involvement they want the Planning Board to  
196 have.

197  
198 Michael Harvey: One thing to remember, this is just a process to get to the state-required process, this is sort of an  
199 initial scoping session. You can start the formal process to extend the ETJ and it still may be denied regardless of  
200 what happens in this process. You are going to have multiple points of notification that has to occur.

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203 **AGENDA ITEM 9**      **UPDATE ON PROPOSED EFLAND ZONING OVERLAY DISTRICTS:** To receive an update on the  
204 proposed Efland zoning overlay districts (heard at the February 24, 2014 quarterly public  
205 hearing). This item will likely be on the March 4<sup>th</sup> Planning Board agenda for a  
206 recommendation to the BOCC.

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

208  
209 *Perdita Holtz updated the Planning Board on the progress of the Efland zoning overlay district and the meeting held.*

210  
211 Lydia Wegman: These suggestions of the residents, are these changes that you are going to make in what you bring  
212 to us next month?

213  
214 Perdita Holtz: Yes, staff doesn't have concerns.

215

216 Lydia Wegman: These changes that go in the UDO, these would be applicable only to two overlay districts?

217  
218 Perdita Holtz: Correct.

219  
220 Lydia Wegman: So they wouldn't serve as some sort of precedence if there were some subsequent....

221  
222 Perdita Holtz: No. When you get it back there will be in a different color to show what has changed from what was  
223 show at the February quarterly public hearing and the changes that have been made along the way. We try to make  
224 it clear what the changes are when we give you information. You may have also noted when you look through this,  
225 like suggestions about community character, that we plan on asking the community at the next public information  
226 meeting to share their thoughts about community character. If they have strong feelings about what they think are  
227 examples of community character that should be replicated or nearly replicated, to please send it to us because we  
228 would like to have some sort of photograph document to give to people who are maybe interested in developing in  
229 the area. Community character is a little bit nebulous to what one person thinks that might not be someone else's so  
230 if we could get input from the actual residents on what they think the character is to show the developers or others  
231 interested in doing something, we think that would go a long way.

232  
233 Pete Hallenbeck: My take on community character is that we don't point to some of the painted cinderblock buildings  
234 that we have that made a great deal of sense 30 years ago and say that's how we do it in Efland and we would just  
235 get more of them. Road access was a big issue, the idea that you'd have to put in an access road, particularly the  
236 parcels north of the railroad tracks, you lose a 30-40 foot chunk from what is already a small piece of property.  
237 Another thing discussed was chain link fences and it was decided to allow a five foot chain link height limit so it's a  
238 practical fence to keep the dogs and children from the street but business can't come in and put up eight foot chain  
239 link fences with barbed wire which would drive a community in the wrong direction. One thing to remember is Efland  
240 is a very unique area; it's the County's town. It has water and sewer but is not in an incorporated area.

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242 Andrea Rohrbacher: I thought I saw something about the entrance to a building does not have to have street  
243 frontage. That has been very controversial in Chapel Hill in several spots. What was the thought process behind  
244 that?

245  
246 Pete Hallenbeck: When you look at the area between the railroad tracks and US 70, it not very wide and there really  
247 isn't a predominant street. Everyone coming from the interstate is going to be on Forrest Avenue which runs parallel  
248 to the tracks and then there is US 70 and there maybe 400 feet between the two and businesses need parking so we  
249 want to make sure if you have a building that faces 70 that if you had parking in the rear, you could have a rear  
250 entrance to the building. This is an example of trying to fit into the existing building and the lay of the land of the  
251 parcels in the northern part.

252  
253 Tony Blake: Has Steve Brantley given any guidance to this from an economic development perspective? I've  
254 heard, Bonnie [Hauser] has told me, that there isn't a vision for the area. I wonder if he came up with suggestions on  
255 the businesses to be attracted to the area.

256  
257 Pete Hallenbeck: I know he is aware of what is going on particularly in the economic development zone and west on  
258 Buckhorn and I think right now this is laying the groundwork for Steve to come in because we have all this different  
259 areas of density and mixed use.

260  
261 Lisa Stuckey: That BOCC appointed committee met for 10 years and then the citizens met for a year and brought it  
262 back to planning staff and everyone is in agreement so why would we mess with it.

263  
264 Tony Blake: Exactly.

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266 Lisa Stuckey: I'm serious, I've been on this Board a long time and we keep going back to Efland, let's finish. It's  
267 probably not a good idea to upset the apple cart.

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269 Pete Hallenbeck: So, our recommendation was to receive an update, ask question, offer comments. Any other  
270 comments?

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273 **AGENDA ITEM 10: COMMITTEE/ADVISORY BOARD REPORTS:**

274 a. Board of Adjustment

275 b. Orange Unified Transportation

276 c. Efland-Mebane Small Area Plan Implementation Focus Group

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278 Michael Harvey: The Board of Adjustment held a hearing on an appeal on a decision by me concerning the recipient  
279 of a notice of violation on a gun range and the Board upheld our decision because there was insufficient evidence to  
280 prove that we erred. There will probably be some form of appeal.

281

282 Tony Blake: There is a lot of concern about signage down there and emergency response.

283

284 Lydia Wegman: Will there be a change in the regulations as a result of all this?

285

286 Michael Harvey: Staff will update the Commissioners and ask for direction. If there are going to be changes, there  
287 will not be changes to the noise ordinance because the sheriff is not interested and the attorney's office doesn't think  
288 they will be enforceable if there are changes.

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291 **AGENDA ITEM 11: ADJOURNMENT:**

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293 **MOTION** by Bryant Warren to adjourn. Seconded by Tony Blake.

294 **VOTE: UNANIMOUS**

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Pete Hallenbeck, Chair