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, July 2, 2014
Ordinance Review Committee Meeting – 6:30 pm

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.

No.	Page(s)	Agenda Item
1.		**CALL TO ORDER**
2.	**3-18**	**UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – NEIGHBORHOOD INFORMATION MEETING FOR SPECIAL USE PERMITS** To review and comment upon proposed revisions to the UDO to require that a neighborhood information meeting be held at least 30 days prior to the public hearing for a Class A or Class B Special Use Permit. **Presenter:** Michael Harvey, Current Planning Supervisor
3.		**ADJOURNMENT**

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ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE
ACTION AGENDA ITEM ABSTRACT
Meeting Date: July 2, 2014

Action Agenda Item No. 2

SUBJECT: UDO Text Amendment – Holding of Neighborhood Information Meetings for Special Use Permit Applications

DEPARTMENT: Planning and Inspections **PUBLIC HEARING: (Y/N)** No

ATTACHMENT(S):

1. Comprehensive Plan and Unified Development Ordinance Outline Form (UDO & Zoning 2014-12)
2. Draft UDO Text Amendment

INFORMATION CONTACT:

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

PURPOSE: To review and comment upon Planning Director initiated Unified Development Ordinance (UDO) text amendments to require a Neighborhood Information Meeting (NIM) for all Special Use Permit applications.

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 June 17, 2014 regular meeting. This item is expected to be on the September 8, 2014 quarterly public hearing agenda.

FINANCIAL IMPACT: Please refer to Section C.3 of Attachment 1.

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

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Return to Agenda

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

UDO / Zoning-2014-12

Require a Neighborhood Information Meeting for all Special Use Permit Applications.

A. AMENDMENT TYPE

Map Amendments

☐ Future Land Use 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):
1. Section 2.7 *Special Use Permits*,
2. Section 2.9.1 (D) *Neighborhood Information Meeting – Conditional Use Districts*, and
3. Section 5.10 *Standards for Telecommunication Uses*.

☐ Other:

B. RATIONALE

1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified*

Development Ordinance Amendments of the UDO, the Planning Director has initiated text amendment(s) to require a Neighborhood Information Meeting (NIM) be held for all Special Use Permit (SUP) applications prior to the scheduling of a public hearing. The proposal would also modify the timeline for the holding of a NIM for Conditional Use applications.

Originally staff had anticipated amending existing NIM requirements for Conditional Zoning District (CZD) applications, as detailed within Section 2.9.2 (D) of the UDO. Staff determined, however, there was no need to revise existing timelines as CZD applications are not reviewed through the quasi-judicial hearing process (i.e. requiring sworn testimony and competent material evidence) and there was no need to provide additional time to adjacent property owners to understand the review process or prepare for the public hearing.

At the May 27, 2014 Quarterly Public Hearing several BOCC members expressed concern over the lack notification/information on SUP applications in advance of a scheduled public hearing.

The review of SUP applications are carried out in a quasi-judicial process requiring the presentation of sworn, expert, testimony and competent material/substantial evidence by both those in favor and in opposition to a given application. Decisions to approve or deny an application are based on this evidence. Hearsay or unsubstantiated opinions are not sufficient testimony. Currently, the SUP review process requires adjacent property owners receive written notice of a public hearing, via certified mail, a minimum of 15 days prior to a scheduled public hearing. Given the complexity of the review process the concern is this is insufficient time to allow for adjacent property owners to gather information, or secure the necessary experts, to effectively participate in the review process.

At the public hearing staff recommended amending existing permit review processes for SUP applications could be amended for future projects to require the holding of the aforementioned meeting in an effort to inform local property owners of the project and provide educational information on the nature of the proceedings, including detail on what constitutes ‘competent material evidence and testimony’, and the required findings that have to be made to issue a permit.

2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: ‘*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’*.

The amendments are necessary to ensure Orange County residents and property owners are provided advanced notice of submitted SUP applications, have an opportunity to review the project before a scheduled public hearing, obtain an understanding of the required review and approval processes, and have sufficient time to gather information and/or secure experts to aid them in the review of the project.

Return to Agenda

It should be noted that the adding of the requirement for a NIM will add approximately 1 month to the review/approval process of all SUP applications.

3. 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.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

a. BOCC Authorization to Proceed

June 17, 2014

b. Quarterly Public Hearing

September 8, 2014

c. BOCC Updates/Checkpoints

June 17, 2014 – BOCC members approve the legal advertisement for the September 8, 2014 Quarterly Public Hearing.

STAFF COMMENT: the BOCC authorized staff to move forward with the proposed amendments consistent with the timelines identified herein.

July 2, 2014 – Planning Board Ordinance Review Committee (ORC)

September 8, 2014 – Quarterly Public Hearing with this item on the agenda.

November 18, 2014 - Receive Planning Board recommendation.

d. Other

2. PUBLIC INVOLVEMENT PROGRAM

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

Return to Agenda

a. Planning Board Review:

July 2, 2014 – Ordinance Review Committee (ORC).

October 1, 2014 – Recommendation

b. Advisory Boards:

N/A

c. Local Government Review:

Review of the proposal by the Town(s) of Chapel Hill and Carrboro consistent with the Joint Planning Agreement (JPA) as the amendment will impact projects in the Rural Buffer.

d. Notice Requirements

Legal advertisement will be published in accordance with the provisions of the UDO.

e. Outreach:

- ☐ General Public:
- ☐ Small Area Plan Workgroup:
- ☒ Other: Staff will ask the County's current telecommunication consultant to review and comment on the amendments as they relate to our telecom program.

  This review is part of their existing contract with the County and will not result in additional cost.

3. FISCAL IMPACT

Modification of existing language will not require the outlay of additional funds by the County. Processing of the amendment shall be handled by staff utilizing existing budgeted funds.

The amendment will require that applicants absorb additional expenditures for advertisement of the NIM (i.e. certified letters) for all SUP projects as well as their attendance. The Orange County Fee Schedule will need to be amended to incorporate these costs.

There will also be an increase in staff workload with respect to preparing, sending out notices, and staffing the NIM potentially impacting Departmental budgetary outlays.

Return to Agenda

Staff is continuing to evaluate workload and needs as the process moves forward.

D. AMENDMENT IMPLICATIONS

The amendments are in response to concerns related to the processing of SUP applications, specifically a lack of advance notification to local property owners/residents of the project. These amendments are designed to promote additional notification of a SUP project in advance of a scheduled public hearing and provide an opportunity for local residents to comment on a project as well as receive an explanation on the SUP review process.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 2 the proposed language.

Primary Staff Contact:
Michael D. Harvey

Current Planning Supervisor

(919) 245-2597

mharvey@orangecountync.gov

Return to Agenda

(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.

(9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.

(10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.

(11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum).

2.7.4 Staff Review

(A) The Planning Director shall cause an analysis to be made of the application by qualified representatives of the County and other agencies or officials as appropriate.

(B) The Planning Director shall submit the analysis to the Board of County Commissioners and the Planning Board, in the case of Class A Special Uses, or the Board of Adjustment, in the case of Class B Special Uses.

(C) The appropriate Board reviewing the application shall receive and enter the analysis into evidence during the public hearing. The analysis shall be subject to examination by all interested parties and the Planning Director shall be subject to cross-examination regarding the analysis.

(D) The Planning Director shall not make a recommendation on the general findings detailed within Section 5.3 of this Ordinance

2.7.5 Neighborhood Information Meeting

(A) Before a Public Hearing may be held on an accepted application for a Special Use, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of the meeting is to obtain surrounding property owner input and comments on the proposed development project and allow staff an opportunity to explain the review process associated with the request. [1]

(B) The applicant shall obtain property owner mailing address information form the Orange County Planning Department, which shall utilize Orange County Land Records data, and

[1] During the review of a Class A Special Use Permit application at the May 27, 2014 Quarterly Public Hearing (QPH) it was suggested there should be a neighborhood information meeting held prior to the public hearing to allow the developer to explain the project to surrounding property owners as well as allow staff to review the process by which Special Use Permits are processed (i.e. quasi-judicial hearing procedures). This amendment will address the concern(s) expressed by BOCC and Planning Board members during the May QPH.

shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a Special Use has been requested.

(C) The notices shall be mailed a minimum of 14 days prior to the date of the proposed neighborhood information meeting.

(D) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.

(E) The meeting shall be held a minimum of 30 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.[2]

(F) Neighborhood information meetings for telecommunication facilities shall be held in accordance with the provisions of Section 5.10.8 (B) (2).

~~2.7.5~~2.7.6 Notice Requirements for Class A Special Use Permits

There are no other substantive amendments to Section 2.7 other than re-numbering. Staff has not included all of the re-numbered sections as part of the ORC review.

(A) The Planning Director shall give public notice of the date, time and place of the public hearing to be held to receive comments, testimony and exhibits pertaining to the application for a Special Use.

otice shall be published in a newspaper of general circulation in Orange County week for two successive weeks, with the first notice to be published not less than ys nor more than 25 days prior to the date of the hearing. In computing the notice the day of publication is not to be included, but the day of the hearing is to be ed.

anning Director shall post on the affected property a notice of the public hearing at en days prior to the date of said hearing.

notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose names and addresses are currently listed in the Orange County tax records.

~~2.7.6~~2.7.7 Notice Requirements for Class B Special Use Permits

Notice Requirements for Class B Special Use Permits shall follow the procedures in Section 2.12.6.

~~2.7.7~~2.7.8 Nature of Proceedings

(A) The review of Special Use Permit applications shall be conducted during a public hearing by the decision-making board.

(B) The review of a Special Use Permit application is a quasi-judicial process, where the Board responsible for rendering a decision acts much like a panel of judges. The Board hears factual evidence and sworn testimony presented at an evidentiary hearing, and then makes findings of fact supported by competent, substantial, and material evidence.

(C) The chair or presiding officer of the hearing shall swear all parties intending to present evidence or testimony during the hearing.

(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] Typically, neighborhood information meetings are required to occur 14 days prior to a public hearing. Staff is recommending 30 days to ensure there is adequate time for adjacent property owners/residents to receive information related to the quasi-judicial review process and secure the necessary experts to argue for/against a specific project.

Return to Agenda

(C) Text amendments to this Ordinance for stormwater provisions shall comply with the requirements in effect for any other text amendment.

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:

(a) A site plan prepared in accordance with the provisions of Section 2.5 including the following:

(i) A detailed description of the proposed use of property including an outline of the proposed operational characteristics of the proposed development,

(ii) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance,

(iii) The appropriate environmental document prepared in accordance with Section 6.16; and

(iv) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.

(b) A summary of utility services, including processing of wastewater.

(c) A schedule of construction of all elements of the proposal; and

(d) Any other information identified during the pre-application conference deemed essential to demonstrate the project's compliance with these regulations.

Return to Agenda

(2) 26 copies of the application package required in (1) above shall be submitted by the applicant.

(3) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CUD.

(D) Neighborhood Information Meeting

(1) Before a Public Hearing may be held on an accepted application for a CUD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.

(2) The applicant shall obtain property owner mailing address information from the Orange County ~~Land Records department~~Planning Department [3] and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a CUD has been requested.

(3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.

(4) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.[4]

~~(4)~~(5) The Neighborhood Information Meeting shall be held a minimum of ~~14~~ 30 [5] days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

(E) Review and Evaluation of Application

(1) All CUD applications shall be reviewed and acted upon in accordance with the review procedures for Class A Special Use Permits (Section 2.7).

(2) The following shall be considered when evaluating an application for a CUD:

(a) The policies and objectives of the Orange County Comprehensive Plan, particularly in relation to the use, proposed site, and surrounding area;

(b) The policies and objectives of any adopted Small Area Plan(s) relating to the area; and

(c) The potential impacts to the surrounding area including, but not limited, to: traffic, storm water drainage, compatibility of land use activities, and land values.

(3) The Board of County Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of the proposed use. Such conditions may address the following:

(a) The characteristics of the proposed use and its relationship to surrounding property and existing land uses,

(b) The proposed support facilities, such as parking, screening and buffer areas,

(c) The timing of the proposed development,

[3] Planning staff already provides this service during the pre-application conference related to a Special Use or Conditional Use project. The proposed amendment is designed to ensure local regulations mirrors current practice.

[4] Staff inadvertently left out the requirement for posting of a sign advertising the neighborhood meeting. This corrects the error.

[5] We are changing the timeframe to 30 days consistent with proposed amendments to Section 2.7 *Special Uses* of the UDO.

Return to Agenda

(1) Changes to approved plans and conditions of development shall be treated as changes to the zoning atlas and shall be processed as an amendment to such as contained in Section 2.8.

(2) The Planning Director may approve minor changes without going through the amendment process. The Planning Director, at his/her discretion, may elect not to allow any proposal as a minor change and will forward the detailed application for changes to the Planning Board and Board of County Commissioners for consideration in accordance with the procedures outlined herein.

(3) A minor change is one that will not:

(a) Alter the basic relationship of the proposed development to adjacent property,

(b) Alter the approved land uses,

(c) Increase the density or intensity of development, and/or

(d) Decrease the off-street parking ratio or reduce the buffer yards provided at the boundary of the site.

2.9.2 Conditional Zoning District (CZD)

(A) Generally

Only those uses listed on the Table of Permitted Uses in Section 5.2 for a specific Conditional Zoning District and detailed in Section 3.8 of this Ordinance shall be developed.

(B) Applications

Applications to rezone property to a CZD 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) Site plans (Section 2.5) for CZDs that require a site plan, and

(3) The provisions of this Section.

(C) Submittal Requirements

(1) In addition to the CZD application form, an applicant shall also submit the following information:

(a) A site plan prepared in accordance with the provisions of Section 2.5 of this Ordinance, except for MPD-CZ applications (see (C)(2) below).

(b) A detailed description of the proposed use of property including an outline of the proposed development.

(c) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance.

(d) The appropriate Environmental Document prepared in accordance with Section 6.16.

(e) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.

(f) A summary of utility services, including processing of wastewater.

(g) A schedule of construction of all elements of the proposal.

Return to Agenda

(h) Any other information identified during the pre-application conference deemed essential to demonstrate the project's compliance with these regulations.

(2) In lieu of the requirements in (1)(a) above, an application for a Master Plan Development (MPD) CZD shall include the requirements in Section 6.7. The requirements of (1)(b) through (1)(h) above are applicable for MPD-CZ applications.

(3) 26 copies of the application package required in (1) and (2) above shall be submitted by the applicant.

(4) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CZD.

(D) Neighborhood Information Meeting [6]

(1) Before a Public Hearing may be held on an accepted application for a CZD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.

(2) The applicant shall obtain property owner mailing address information from the Orange County Land Records department and shall mail certified notices of the meeting date and time to each property owner within 500 feet of the property for which a CZD has been requested.

(3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.

(4) The Neighborhood Information Meeting shall be held a minimum of 14 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

(E) Review and Evaluation of Application

The review, processing, and evaluation of a CZD application is a legislative process subject to judicial review using the same procedures and standards of review that apply to general use district zoning decisions.

(F) Approval and Conditions

(1) The Board of County Commissioners shall take action on the application to rezone the property in accordance with the procedures outlined within Section 2.8.

(2) The applicant or the County may recommend that reasonable and appropriate conditions be attached to the approval of the application

(3) Conditions and site-specific standards shall be limited to those that address the conformance of the development to County ordinances, the adopted Comprehensive Plan, or any other relevant plans that address the impacts reasonably expected to be generated by the proposed development. Any such conditions may address:

(a) The compatibility of the proposed development with surrounding property,

[6] Originally staff had anticipated amending this section to require a neighborhood information meeting to be held 30 days prior to a public hearing to review a CZD application. As the review of this type of application does not involve a Special Use Permit and is completed through a legislative review process (i.e. no sworn expert testimony), staff has determined existing review requirements are sufficient.

Return to Agenda

(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 telecommunication support structures for that given year.

(D) Applications for the development of telecommunication support structures shall be processed in accordance with the provisions of this Ordinance.

5.10.4 Existing Wireless Telecommunications Support Structures

(1) Telecommunications equipment as accessory uses may be placed on existing wireless support structures in accordance with the provisions of this Ordinance.

(2) Notwithstanding the other provisions of Section 5.10, telecommunications towers in existence as of December 10, 2002, may be replaced with a wireless support structure of equal or less visual impact after approval by the Planning Director. However, if the proposed new wireless support structure would not be consistent with the minimum standards under Section 5.10, replacement must be approved as provided for in this Ordinance.

5.10.5 Wireless Telecommunications Support Structures and Equipment as Principal or Accessory Uses

(A) Wireless telecommunications support structures shall be permitted as a principal or accessory use in accordance with the Table of Permitted Uses and as follows:

(1) On property owned by the County or any public entity, except those designated as historic properties or sites, the County may, in its sole discretion as the owner of the property, authorize the application and use of County property after the applicant executes a lease agreement acceptable to the County.

(2) Wireless telecommunications facilities, as part of existing utility poles shall be permitted as an accessory use. Wireless facilities shall be constructed as part of the existing utility poles or as replacements for the existing utility poles. No freestanding towers constructed exclusively for personal wireless services shall be permitted within utility easements.

(3) The placement of new wireless telecommunications support structures shall be in accordance with the Table of Permitted Uses, except as permitted in the Master Telecommunications Plan ("Plan") or by Section 5.10.6 of this Ordinance.

5.10.6 Administrative Approval of Certain Telecommunication Facilities

(A) Applicability

The following telecommunication facilities may be approved administratively by the Planning Staff provided that all of the provisions contained in Section 5.10 are met:

(1) New stealth telecommunications wireless support structures up to 75 feet in height that are sufficiently disguised so as to minimize visual impact;

(2) Any wireless support structure less than 75 feet in height;

(3) Any wireless support structure less than 200 feet in height located on property that is owned or leased by Orange County; and

Return to Agenda

(4) Any wireless support structure less than 200 feet in height on which the owner of such facility permits the County to collocate its wireless facilities on the structure at no charge to the County when the location of such facility is of benefit to the County as determined in the sole discretion of the County.

(5) A written decision approving or denying an application for administrative approval of a telecommunication facility under this section shall be issued no later than 45 days following the submission of a complete application.

(6) Collocation applications meeting the following requirements:

(a) The proposed additional facility will not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached consistent with Section 2.7.14 of the Ordinance.

(b) The proposed additional facility will comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

(c) The proposed additional wireless facilities comply with all federal, State, and local safety requirements.

(d) The proposed additional facility does not exceed the applicable weight limits for the wireless support structure.

(B) Submittal Requirements

All applications for telecommunication facilities that are eligible for administrative approval shall be submitted and reviewed in accordance with the standards of Section 5.10.8 of this Ordinance.

(C) Neighborhood Information Meeting [8]

(1) For all administratively approved wireless support structures, excluding collocations, a neighborhood information meeting shall be scheduled in accordance with the provisions of Section 5.10.8

5.10.7 Antennas Not Located on Wireless Telecommunications Support Structures

(A) General Standards

(1) To minimize adverse visual impacts, stealth antenna types shall be preferred. If a non-stealth antenna is proposed, the application shall be required to demonstrate, in a technical manner acceptable to the Planning Director, why the stealth antenna (i.e. an antenna incorporated into the architecture of the building or fully screened from view from sight proximate to the antenna) cannot be used for the particular application. This does not preclude a combination of the various types of antennas.

(2) Antenna dimensions shall be subject to approval by the Planning Director. A statement shall be submitted, prepared by a professional engineer competent to evaluate antenna choices, to certify the technical need for the required dimensions.

(3) Prior to the issuance of a Building Permit by the Inspections Division, the application shall provide evidence that the wireless telecommunication support structure or antennas are in compliance with FAA regulations. Where an antenna will not exceed the highest point of the existing structure upon which it is to be mounted, such evidence shall not be required.

[8] Staff is adding language to ensure all administratively approved towers will comply with the same neighborhood information meeting requirements as any other regulated wireless support facility.

Return to Agenda

~~engineer certification statement shall include certification that the structure can support the load superimposed from the wireless support structure. All wireless support structures shall have the capacity to permit multiple users; at a minimum monopole wireless support structures shall be structurally designed to accommodate four users and self-support/lattice or guyed wireless support structures shall, at a minimum accommodate three users.~~

(B) General Submittal Requirements – Special Use Permits

In addition to the general submittal requirements detailed herein, and the specific submittal requirements for all Special Use Permit applications detailed within Section 2.7 of this Ordinance, applicants shall be required to adhere to the following:

(1) Overall Policy and Desired Goals

The overall policy and desired goals for Special Use Permits for wireless telecommunications support structures shall be promoting and encouraging, wherever possible, the following:

(a) Alternatives to constructing new wireless support structures, including but not limited to the collocation of wireless telecommunications equipment and mitigating the visual effect of a wireless telecommunication support structure to an extent not commercially impracticable; and

(b) The placement, height and quantity of wireless telecommunications towers and equipment in such a manner, including but not limited to the use of stealth technology or camouflage techniques, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications support structure, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

(2) Balloon Test

(a) The applicant shall, at least six weeks prior to a Class B Special Use Permit public hearing and at least 11 weeks prior to a Class A Special Use Permit public hearing, conduct a balloon test whereby the applicant shall arrange to fly, or raise upon a temporary mast, a minimum of 10’3” in length, brightly colored red or orange balloon at the maximum height of the proposed new wireless support structure.

(b) The balloon test shall be flown for at least four consecutive daylight hours starting sometime between 10:00 A.M. and 2:00 P.M. on the dates chosen.

(c) A notice of the dates (including a second date in case of poor visibility, weather or atmospheric conditions on the initial date), times, and location of the balloon test shall be mailed, by certified mail, return receipt requested, by the applicant, to all persons owning property within 1,000 feet of the subject parcel no less than 14 days in advance of the first test date. The data contained within the office of Orange County Land Records shall be used as the primary source for determining which residents are to receive notice of the balloon tests.

This notice shall also inform local residents that a neighborhood information meeting shall be held the day of the balloon test so that the applicant can explain the proposal and Planning staff, including the

Return to Agenda

County's telecommunications consultant, can explain the Special Use Permit review process. [9]

(d) The primary date shall be on a weekend (excluding legal holidays), but to prevent delays in the processing of the application, and in case of poor weather or atmospheric conditions on the initial date, the secondary date may be a weekday.

(e) The applicant shall inform the County Planning Staff, in writing, of the dates and times of the test at least 14 days in advance.

(f) The applicant shall also post a sign on the subject property, and directional signs posted at locations to be determined by Planning Staff. The signs shall measure no more than nine square feet in area and no less than four square feet in area, giving the contact information of the County Planning Department, the proposed dates, times, and location of the balloon test. The signs shall be posted to meet the same time limits as provided for in the balloon test notification as stated above.

(3) Submittal Requirements

In addition to the information required herein as well as Section 2.7, the following shall be submitted as part of the application:

(a) A site plan showing the following:

(i) The entire site (including property boundary lines) and size of all existing structures within 500 feet of the site,

(ii) Existing and proposed structures on site,

(iii) The fall zone of the tower,

(iv) Existing and proposed topography at a contour interval of five feet and

(v) Any officially designated floodways and floodplains, or the presence of alluvial soils.

(b) Plans, and elevations for all proposed structures and descriptions of the color and nature of all exterior material, along with the make, model, and manufacturer of the proposed structure, maximum antenna heights, and power levels.

(c) A Landscape and Tree Preservation Plan drawn at the same scale as the site plan, showing the existing and proposed trees, shrubs, ground cover and other landscape materials. This plan shall minimize adverse visual effects of wireless telecommunications support structures and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.

(d) Evidence that the applicant has investigated the possibilities of placing the proposed equipment on an existing wireless support structure. Such evidence shall consist of:

(i) A listing of all wireless telecommunications support structures within a two mile radius of the proposed wireless support structure site and a listing of all wireless support structure, utility poles and other structures in the vicinity of the proposed facility

[9] As we currently require a balloon test be held prior to a public hearing reviewing a telecommunication application, staff believes it is reasonable to hold a neighborhood information meeting at the same time on-site so that interested parties can not only visualize the height of a proposed tower but ask questions related to the review process.

Return to Agenda