

APPROVED 1/20/2011

**MINUTES**  
**ORANGE COUNTY BOARD OF COMMISSIONERS**  
**ORANGE COUNTY PLANNING BOARD**  
**Dinner Meeting**  
**November 22, 2010**  
**5:30 p.m.**

The Orange County Board of Commissioners and the Orange County Planning Board met for a dinner meeting on Monday, November 22, 2010 at 5:30 p.m. at the Link Government Services Center in Hillsborough, NC

**COUNTY COMMISSIONERS PRESENT:** Chair Valerie P. Foushee, and Commissioners Alice M. Gordon, Barry Jacobs, Pam Hemminger, and Steve Yuhasz

**COUNTY COMMISSIONERS ABSENT:** Mike Nelson, Bernadette Pelissier

**COUNTY ATTORNEY PRESENT:** John Roberts

**COUNTY STAFF PRESENT:** County Manager Frank Clifton and Deputy Clerk to the Board David Hunt (All other staff members will be identified appropriately below)

**PLANNING BOARD MEMBERS PRESENT:** Chair Brian L. Crawford, May Becker, Pete Hallenbeck, Rachel Phelps Hawkins, Tommy McNeill, Earl McKee, Mark Marcoplos, Judith Wegner, and Larry Wright

**PLANNING BOARD MEMBERS ABSENT:** Samantha Cabe

New Planning Board members (yet to be sworn in) were present: Andrea Rohrbacher and Alan Campbell

Commissioner Foushee called the meeting to order at 5:45 PM. Introductions were made.

Planning Director Craig Benedict said that each year the Planning Board looks at the previous year and the upcoming year. He said that the County is into the formal process of the Unified Development Ordinance (UDO), and this is a very important framework for the future.

### **Tentative 2011-12 Planning / Planning Board Work Plan Discussion**

#### **1) Completion of Initial Unified Development Ordinance**

- Public hearing on November 22, 2010
- Forward to the Planning Board for a recommendation (December and January)
- UDO is to be adopted by the BOCC February 15, 2011?
- UDO creates framework
  - Regulations related to economic development, permitted uses, and process standards to be refined as noted in item 3 below

Larry Wright said that he was on the Planning Board when it worked on the Comprehensive Plan. He has concerns about conditional zoning and could not resolve the question about spot zoning. He is also on the Board of Adjustment, and when there is a submission before it, the submission must conform and be justified in terms of the Comprehensive Plan. He asked why the UDO is not being looked at to see if it conforms with the 2030 Comprehensive Plan. He wants to know what the rush is because the UDO is a very

important document. He asked if the terms within the Comprehensive Plan are the terms that should be used in the UDO also.

May Becker said that she agreed with Larry Wright. She feels like the Planning Board has not spent sufficient time on this version of the UDO to figure out if this is really what is best. In particular, she has concerns about several items, including stream buffers, protecting the limited water supplies, and the tree protection ordinance.

Commissioner Gordon said that she also has concerns about this most recent version of the UDO document. She made reference to her handouts for the public hearing in which she summarized some sections of the UDO she believed were important, but said that she had not even begun to go through this document. She is particularly concerned about conditional zoning. She is also concerned that this is the only public hearing on this UDO. She said it is a very large document, and it is not easy to understand. It is also more than a consolidation of existing ordinances, and has new sections in it. For example, there is a new section on tree protection. She said when the Chapel Hill Town Council considered its own tree protection ordinance, it took extra time to consider just that one ordinance. She said there needs to be more clarity in the document. She would like the Planning Board to have time to read it and go through it more thoroughly.

Commissioner Jacobs said that he has pretty much the same background as Commissioner Gordon in that he has been a Commissioner for awhile and he has been on the Planning Board. He has a lot of respect for the Planning Board and the process. He said that he also came tonight aware of the fact that last week the County got an odd, but respectable request from the Town of Chapel Hill to please provide a copy of the UDO. He said that there should be presentations at all four Towns. He said that staff needs to come up with a schedule to inform the towns about this. He would like a recommendation from the Planning Board after the public hearings. He thinks that there are some complicated issues and some departures from what has been done before. He said that it is reasonable to give more time to make sure that everyone understands the changes.

Judith Wegner said that there are a lot of areas to be decided. She said that the Planning Board understands that the goal is to have a single document for county ordinances.

Brian Crawford said that there are a lot of development ordinance documents and there are also a lot of things in the UDO that the Planning Board does not like. The goal is for the developer to go to one document and figure out how to get things done in Orange County. The goal is to have a unified document. He wants the Commissioners to understand that the Planning Board is aware that there are things in the UDO that are not perfect.

Commissioner Jacobs asked Craig Benedict if he envisioned a way that the County could adopt the UDO and flag sections that have to be refined.

Craig Benedict said that there is a bridge document that notes everything mentioned by the County Commissioners, Planning Board, and the public. These things are flagged. In the existing ordinance, it would be problematic to pull things out.

Larry Wright pointed out that there are a lot of cross references from chapter to chapter.

Steve Yuhasz said that this is just the first phase. He said that if the UDO is not put in place fairly quickly, then the County will never get to the second phase. He said that it would be a huge step backwards to delay.

May Becker said that for the parts that are new, the Planning Board has not had enough time to go through it. The board needs more time to sit down and make an informed recommendation.

Commissioner Hemminger said that she has never been on a Planning Board, so it is hard for her to digest. She thinks that there is time to spend on making this a document that works. She would like to hear what the public has to say.

Judith Wegner thanked the staff for all of the work. She said that 80% of it is very positive. She would like to firm the substantial parts that are acceptable and then zero in on the parts that need more time.

Frank Clifton said that he has never been anywhere that has the perfect document. If the staff goes to the towns, there should be a timeline. He cautioned the Board not to leave it an open-ended process. He said that nobody is banging on the door because of the economy. If the economy does turn around in the near future, then there should be something in place.

Commissioner Gordon said that the County should err on the side of caution because there is a lot in here that is new. The Planning Board and the County Commissioners need to have the time to get through the document. She agreed that there needs to be a timeline. She respects the Planning Board and wants it to get through this document.

Craig Benedict said that the County did receive a letter from Mayor Kleinschmidt asking for additional information. Staff has been working on trying to explain the differences and nuances of conditional zoning districts. He said that there have been outreach meetings, but they have been sparsely attended. He said that the conversation can continue with the Planning Board and the timeframe does not have to be December 1<sup>st</sup> to have comments come back. In order to proceed with the next phase, it is hard to make revisions when it has not been adopted yet.

Commissioner Jacobs said that, in the interest of moving the conversation forward, he suggested that the staff and Planning Board come back with a proposed timeline to make presentations to the Towns on the UDO, and also that the Planning Board consider this document and come back to the County Commissioners with a recommended timeline for review and adoption this fiscal year. There should also be a deadline for getting the Planning Board recommendation on the timeline to the Board of County Commissioners before the Board adjourns this calendar year on December 14<sup>th</sup>. The Board agreed.

Commissioner Yuhasz said that he would not like to see consideration of the UDO to get mixed up with the budget considerations. He urged that the timeline has this coming back before serious budget considerations.

Brian Crawford said that the Planning Board will hear the public comments and then will deliberate and come up with a compromise.

## 2) Land Use Plan Text and Map and UDO Text and Zoning Atlas Amendments

- Several Small Area Plans (SAP) with economic development focus
  - See maps and charts
- These amendments are to be completed through two public hearings:
  - February 2011?
    - Land Use Plan *text* amendments (a prerequisite for the following amendments)
  - May 2011?
    - Land Use Plan *map* amendments
    - UDO *text* amendments
    - Zoning *map* amendments

Craig Benedict said that there is a land use document with text amendments and then a UDO with text in the document. There are also small area plans and the rural economic development district. He said that they are anxious to put this together.

## 3) Economic Development / Planning Board Workgroup (Spring/Summer 2011?)

- Expediting Approval
-

- Targeted Industries
- Permitted Uses
- Specialized zoning district by SAP subarea
- Standards

*The meeting was adjourned at 6:36 p.m.*

Valerie Foushee, Chair

David Hunt  
Deputy Clerk to the Board

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**MINUTES  
ORANGE COUNTY BOARD OF COMMISSIONERS  
ORANGE COUNTY PLANNING BOARD  
QUARTERLY PUBLIC HEARING  
November 22, 2010  
7:00 p.m.**

The Orange County Board of Commissioners and the Orange County Planning Board met for a Quarterly Public Hearing meeting on Monday, November 22, 2010 at 7:00 p.m. at the DSS Building, Hillsborough Commons, in Hillsborough, NC.

**COUNTY COMMISSIONERS PRESENT:** Chair Valerie P. Foushee and Commissioners Alice M. Gordon, Barry Jacobs, Pam Hemminger, and Steve Yuhasz

**COUNTY COMMISSIONERS ABSENT:** Mike Nelson and Bernadette Pelissier

**COUNTY ATTORNEY PRESENT:** John Roberts

**COUNTY STAFF PRESENT:** County Manager Frank Clifton and Clerk to the Board Donna S. Baker (All other staff members will be identified appropriately below)

**PLANNING BOARD MEMBERS PRESENT:** Chair Brian L. Crawford and members May Becker, Pete Hallenbeck, Earl McKee, Larry Wright, Mark Marcoplos, Judith Wegner, Rachel Phelps Hawkins, Andrea Rohrbacher and Alan Campbell

**PLANNING BOARD MEMBERS ABSENT:** Samantha Cabe and Tommy McNeill

**A. OPENING REMARKS FROM THE CHAIR**

Chair Foushee called the meeting to order at 7:03 p.m. and asked everyone to observe the public charge. She turned the meeting over to Planning Director Craig Benedict and Planning Board Chair Brian Crawford.

**B. PUBLIC CHARGE**

*The Chair dispensed with the reading of the public charge.*

**C. PUBLIC HEARING ITEMS**

1. **UNIFIED DEVELOPMENT ORDINANCE** - To receive public comments on the proposed Unified Development Ordinance.

Craig Benedict said that in August 2009 the Planning staff met with the Board of County Commissioners to see how much time it would take to put together a Unified Development Ordinance. Tonight's presentation is the first formal public hearing for this process.

**ORANGE COUNTY UNIFIED DEVELOPMENT ORDINANCE (UDO)  
Quarterly Public Hearing  
November 22, 2010**

**Quick Presentation Overview:**

- Project scope
- UDO in Phases

- Public Participation During this Process
- Comments Received on First Draft
- Proposed UDO
- Implementation Bridge
- Additional Information and Recommendation
- Public Comments

### **Project Scope**

- Combine multiple County land use related ordinances into one cohesive document (6 into 1)
- Reorganize into a new format
- Eliminate existing contradictions and inconsistencies
- Update specific regulations
  - o Signage
  - o Landscaping, buffers, and tree protection
  - o Parking and loading
  - o Stream buffers
  - o Lighting (not completed in this phase)
- Develop Conditional Use and Conditional Zoning processes to replace existing Planning Development districts
- Update graphics and tables
- Recommendations for next phases

### **UDO in Phases**

- Staff authorized by BOCC to pursue specific items
  - o Goal: create a UDO format using existing standards and language to the greatest extent possible
- Implementation Bridge
  - o Consultant preparing
  - o Recommend subsequent UDO amendments
- Adoption of this “framework” phase permits County to prioritize and focus on amendments to sections in future phases

### **What This Phase Doesn't Do**

- Does not change approval processes
- Does not change standards, performance levels, or dimensions
- Does not drastically streamline sections
  - o Content/intent is often changed by abridgement
  - o Philosophical changes could lead to lengthy debate

### **Public Participation During This Process**

- Public Meetings to receive public input held on:
  - o October 19, 2009
  - o October 22, 2009
  - o November 2, 2009 – (Joint Advisory Boards)
  - o June 14, 2010
  - o June 16, 2010
  - o September 8, 2010
  - o November 17, 2010

### **First Draft and BOCC/Planning Board Review**

- First Draft was released on August 9, 2010.
- Public comments were accepted until September 20, 2010.
- Two BOCC work sessions to review/comment on First Draft
- Two Planning Board meetings to review/comment on first Draft
- Joint Planning Area (JPA) partners were notified in August, pursuant to JPA Agreement

### **First Draft Comments**

- Comments are documented in Attachment 2
- Notations of how the comment was treated by staff
  - o Many were incorporated into the Public Hearing Draft (denoted by '1')
- Comments denoted by '2' could be incorporated but direction from the BOCC is necessary
  - o Comment potentially exceeds scope of this phase

### **Proposed UDO**

- Uses existing language and standards
  - o Zoning ordinance
  - o Subdivision regulations
  - o Environmental impact ordinance
  - o Economic development design manual
  - o Soil erosion and sedimentation control ordinance
  - o Stormwater ordinance
- Footnotes used throughout to document where language is from or other pertinent information
- First Draft proposed deletions in strike-through font
- First Draft proposed additions in red
- Public Hearing Draft proposed deletions in green strikethrough
- Public Hearing Draft proposed additions in green
- Proposed text changes to existing text where the text was inadvertently omitted from the First Draft in orange
- "Notes" page
- Comparative table lists all existing ordinances and sections along with where they can be found in the UDO or whether suggested for deletion
- PDF available on CD or online
  - o Table of Contents hyperlinked in electronic versions
- Questions and Answers document was developed – Attachment 1

### **Articles**

1. Administration
2. Procedures
3. Base Zoning Districts
4. Overlay Zoning Districts
5. Uses
6. Development Standards
7. Subdivisions
8. Nonconformities
9. Enforcement
10. Definitions

### **Appendices**

### **Regulation Amendments**

- Conditional districts
  - o Replace existing Planning Development Districts
- Signage
  - o More clearly articulate requirements
  - o Addition of numerous definitions to more clearly define and illustrate signs
- Landscaping, Buffers, and Tree Protection
  - o Rewritten and reorganized to be more user-friendly
  - o Better graphics to illustrate concepts
  - o Clearer language to articulate requirements
  - o Ability to receive credit for existing vegetation preserved within buffer areas
  - o Permits flexibility in timing and placement of plant materials
- Parking and Loading
  - o More clearly articulate requirements
  - o Better graphics to illustrate concepts
  - o Allowances for reduced parking for shared parking areas
  - o Criteria for flexible parking requirements for renovations and adaptive reuse projects
- Stream Buffers
  - o Additions to the uses permitted within designated stream buffers
    - Examples: driveways, hiking trails, public water, and sewer lines
  - o New category of “uses permitted with mitigation”
    - Examples: docks, piers, boat ramps, trail crossing with bridges, new stormwater ponds
  - o Consistent with State regulations
- Outdoor Lighting
  - o (not completed in this phase)

### **Conditional Zoning Districts and Conditional Use**

- These districts replace the existing Planned Development (PD) districts
- The difference between these proposed districts and PD is that Conditional Districts allow the County and the applicant to mutually agree to conditions that address off-site impacts of development
  - o PD mutually agreed upon conditions can address only on-site impacts
- The Applicability and Review/Approval process for Conditional Use is the same as the existing PD districts.
  - o Much of the language in Section 3.7 (Conditional Districts) and the district charts comes from the existing Planned Development article.
- The Approval Process for Conditional Zoning Districts (CZD) differs from the existing process for PD in that a Class A Special Use Permit is not required for CZDs.
  - o A concurrent Class A Special Use Permit is required for Conditional Use

### **Conditional Use**

- Any use listed on the Table of Permitted Uses
  - o Except uses specifically excluded from consideration (Section 5.1.4)
  - o Any variations to linked general zoning district standards must be approved by the BOCC.
  - o Any conditions and/or site-specific standards imposed are limited to those that address:
    - The conformance of the development and use of the site to County ordinances and officially adopted comprehensive or other plan, and

- The impacts reasonably expected to be generated by the development or use of the site.
- The applicant must agree to all conditions.

**Conditional Zoning Districts**

- Specific zoning district with a specific list of permitted uses
- Three conditional zoning districts in this first phase of the UDO
  - MHP-CA
    - (Mobile Home Park district; replaces PD-MHP but does not require Class A SUP approval)
  - PID-CZ
    - (Public Interest district; replaces existing PD general zoning district)
  - MPD-CZ
    - (Master Plan Development; replaces many of the components of the existing PD-MU)
- Potential future phase conditional zoning districts noted in Section 3.7 footnote
  - Agricultural Support Enterprises
  - Rural Economic Development Area (REDA)
  - Transit Oriented Development (TOD)
  - Airport

**Economic Development Districts – Name Changes and Zoning District Name Changes**

- Attachment 5 contains the proposed name changes and zoning district name changes

**Proposed Name**

**Current Name**

Buckhorn Economic Development District	I-85/Buckhorn Road District
Hillsborough Economic Development District	I-40/Old NC 86 District (but the Appendix to the EDD Design Manual refers to it as "Hillsborough Area")
Eno Economic Development District	I-85/U. S. Highway 70 District

**Modifications to be Incorporated into UDO**

- Several graphics are noted to be subject to change/modification – Consultant is working on changes
- Section 4.4.4 (B) – language will be changed to be consistent with the language used in the UDO
- Definitions – Offices and Personal Services, Class 1, 2, and 3.
  - Staff had reviewed the traffic volume information and recommends the volumes stated in the draft UDO

**IMPLEMENTATION BRIDGE**

**(A Consultant Product)**

- What will it include?
- Why is it important?
- When will County receive?

**What will it include?**

- Summary of issues, comments, suggestions, concerns raised tonight and previously
- Summary of key themes in 2030 Comprehensive Plan
- Description of how key themes are addressed in UDO
- List of issues, suggestions, not yet addressed

- Recommended strategies for addressing
- List of potential future UDO amendments

#### **What is it important?**

- Purposeful incremental steps
- Get the UDO framework in place
- Continue implementation of Comprehensive Plan
- Help set context and priorities for future amendments
- Potential blueprint for next steps

#### **When will County receive?**

- To coincide with BOCC receipt of Planning Board recommendation on draft UDO
- Target: February 15, 2011 BOCC meeting
- Present Implementation Bridge to Planning Board at its March meeting

#### **Additional Information**

- Received letter from Town of Chapel Hill late Friday (11/19) regarding the UDO
  - o Petition submitted by a Town of Chapel Hill Council member at the Town's November 15, 2010 meeting.
- Letter requests information from the County's Planning Department
- Planning staff is working with Town staff on this issue as the normal JPA Agreement Process has been followed

#### **Recommendation for BOCC**

- Receive the proposed Unified Development Ordinance
- Conduct the Public Hearing and accept public, BOCC, and Planning Board comment on the proposed Unified Development Ordinance.
- Refer the matter to the Planning Board with a request that a recommendation be returned to the Board of County Commissioners in time for the February 15, 2011 BOCC regular meeting
- Request that our JPA partners provide any written comments by January 24, 2011
- Adjourn the public hearing until February 15, 2011 in order to receive and accept the Planning Board's recommendation and any written public comments submitted to the Planning Board at or prior to its December 1 meeting.

Brian Crawford asked if the Planning Board or the Board of County Commissioners had any questions about the presentation.

Commissioner Gordon pointed out the emails from the public and read them into the record. These emails will be included in the record of this hearing. Basically, the emails are asking for more time to learn more about the implementation of the UDO and to delay the UDO decision until the public has had more time to review it.

Commissioner Gordon said that the staff said that Conditional Use Districts do conform to the Planned Development process and she gave the citation 3.7.3 (b)(2). She said that what this actually says is, "shall conform to the applicable development regulations for the corresponding general use district." She wants to know if this means the same thing as what is stated for Planned Developments in Section 7.2.5 of the current ordinance, which says, "within the Planned Development District, only those uses authorized by Article 4, as permitted in the zoning district with which the PD corresponds shall be permitted and all other requirements of the corresponding district shall be met." She said that "all other requirements" sounds like standards, not uses. She wants to know if there are differences in what uses are allowed.

Perdita Holtz said that "regulations" can include "uses" because the permitted use tables technically are regulations. She said that she could add the word to Section 3.7.3 to make it clear that it does mean "uses" as well.

Commissioner Gordon said that this clarification about uses should also be included in the section that is right before the permitted use table. That section on conditional uses states that any use on the Table of Permitted Uses is allowed except uses specifically excluded from consideration.

Commissioner Jacobs said that since staff has referred to what was discussed at the dinner meeting as far as the schedule and since some people may be here to ask for more time, he suggested that one of the Chairs outline what was suggested about more time for people to review and comment on the document.

Chair Foushee said that the Board of County Commissioners and the Planning Board had a dinner meeting earlier and the Planning Board had concerns about having more time to review this document. There was agreement that the timeline proposed be modified to give the Planning Board, the Towns, and the public more time to review this information or to receive a presentation from the planning staff without taking an excessive amount of time in getting back to the Board of County Commissioners.

Brian Crawford said that at the next Planning Board meeting, they will review the comments raised tonight and will propose a new timeline in which to address further comments and to give the public more time to express their concerns, etc. This proposed timeline would be back to the Board of County Commissioners by its last meeting on December 14<sup>th</sup>.

Chair Foushee said that the County Commissioners do not want to rush this process, but they do want to do it as soon as possible so that it does not conflict with the budget negotiations.

### **PUBLIC COMMENT**

Kathleen Ferguson works with Quintiles in contracting and she is also Chair of the Orange County Economic Development Commission (EDC). She said that earlier this year, the EDC made a recommendation that Orange County complete all phases of the UDO within a timeframe that establishes confidence with investors and business owners. This is in the context of commercial development. Phase II has an end result of Orange County being comparable with the outside areas. She said that \$1.9 billion of investment occurred in this region at the height of the great recession. In 2009, Orange County received nothing. Part of it is that Orange County needs to have a competitive permitting process that is streamlined and reduces cost and time that is 90 days or less, preferably 60 days or less. She also represents the 48% of Orange County residents who commute outside the County to work. She said that there are no opportunities within the County in the private sector for jobs. She would hate to see Orange County send a message that citizens must leave the County for work. She said that having a UDO that is user-friendly for business investors will help achieve economic development. She urged the Planning Board and the County Commissioners to look at what

would encourage this type of commercial development. She said that in Site Selection Magazine, North Carolina is nine times out of ten the top placement in the country for business.

Ben Lloyd agreed with Kathleen Ferguson. He said that what is in the current rules is what bothers him, which are over-stringent regulations that have prevented any economic growth in Orange County. This has resulted in a property tax that is unbearable. Only 13-14% of the revenue comes from commercial or industrial development. There are lifetime residents leaving Orange County because they cannot afford to live here. There are three economic development districts that have been here for 19 years. He said that Orange County has created an anti-business image. He suggested that the boards scrutinize the document carefully, make any necessary changes, and then pass it.

Desiree Goldman was speaking for two organizations. She spoke on behalf of Aaron Nelson with the Chapel Hill-Carrboro Chamber of Commerce. She said that the Chapel Hill-Carrboro Chamber of Commerce urges the County to move forward on the UDO as soon as possible. They see it as very important to economic development. As the Legislative Affairs Director for the Greater Chapel Hill Association of Realtors, she urged the County Commissioners to pass the UDO as soon as possible and to immediately initiate Phase II. She sees this as a way to creatively find ways to build in incentives for economic development. The process needs to be streamlined for economic development (reducing fees, etc.). Also the process needs to be clear and predictable.

Dolly Hunter said that she has been an Orange County resident for the past 30 years and she has participated in the following: planning, Farmland Preservation Board, Rural Character Study, Cane Creek Reservoir Study, Economic Development Infrastructure Committee, and the design of the EDDs. For many years, she has done voluntary farmland preservation work for farmers. Recently, she was on the Orange County Comprehensive Plan Coalition following the Comprehensive Plan 2030 creation. Concerning this UDO, she knows of which she speaks and she said that it is good that the UDO combines the existing land use regulations and asks that the new revisions are flagged for more review. Secondly, the County needs to initiate Phase II. The existing land use regulations need to be redesigned to be fair, clear, and predictable. Concerning Phase II and the Comprehensive Plan, no part of small area plans should supersede what should be designed for the benefit of the entire County. She said that the Orange County UDO website states that, "Future UDO phases are expected to consist of additional changes to regulations and that the consultant will produce a list of potential phase work." She asked that the County Commissioners initiate a Phase II, but that it will strive to simplify the development regulations in order to encourage the creation of economic development with greater coherency in land policy.

Pat Karom spoke for Darrell Chandler.

Darrell Chandler  
9925 NC Hwy 57  
Rougemont, NC 27572

"I have been working on trying to have some type of commercial zoning for almost 7 years. The County put together a small area task force that I was a part of. We went over many issues and I thought we had come to a conclusion that the area around Orange County Speedway, Go-Kart track, Concrete Company, and the Quarry should be allowed to have some type of commercial use. It's gone on for weeks, months, and years and there has not been one thing done as far as getting something finalized. The County has spent a lot of taxpayer's money looking into this area and it is time to sign some conditional use into law. The parcel of land I own is 37 acres. My land is at the intersection of Mile Branch Rd. and NC Hwy. 57. Approximately 4 acres is adjacent to the concrete company with loud trucks coming and going all day. On the other side of the concrete company is the quarry with trucks coming and going

all day. Directly across the street is the Go-Kart track and all the noise it makes. Just to the south of the property is Orange County Speedway. These 4 acres are not suitable for any type of residential use. I built a 4,000 square foot home on the site across the road from the concrete plant and I live there full-time, so I'm not going to do anything that's going to hurt the value. I want to put some mini-storage units on the 4 acre site beside the concrete company. I'm asking that the elected officials (Commissioners) sign into law the conditional use and the ordinance so residents like myself and others with property in the middle of the commercial area are allowed to do some type of commercial use. I remind the Commissioners that this is conditional use, not an outright commercial zone. So we will have to get permission before we do anything. As it stands now, we can't do anything, so please make this issue a priority, it's been long enough.

Sincerely, Darrell W. Chandler"

Allan Rosen said that he has been a County resident for 18 years and he has served on the Economic Development Commission. He said that there is no doubt that existing regulations have impeded commercial development, but they have also increased the cost of land, which has had an adverse affect on the cost of housing. He said that if the UDO is done well, it can improve both commercial development outcomes and hopefully residential development outcomes. He said that the Comprehensive Plan has never truly been implemented. He thinks that the County will be served well when it is implemented fully. He said that it is also critical that it be done as thoroughly as possible. He considers Phase II as more important. He said that the UDO is the one policy instrument that is substantially or wholly in control of the Board of County Commissioners. The County Commissioners can make its mark here and send a signal to the business community that Orange County is serious about welcoming business.

Ben Haven from the Village Project read a prepared statement.

"Since 2005, the Village Project has actively participated in Orange County's efforts to create the 2030 Comprehensive Plan, and we've continued to pay attention to related issues on the Commissioners' agenda. One of our foremost desires is that the Plan will clearly delineate where growth, redevelopment, and reinvestment can occur, especially those projects necessary to build and maintain a resilient, high-functioning business sector. The rules and regulations governing the development process in Orange County have as much influence on our built environment as any other factor controlled by County government. Hence, it is essential that the County's development regulations promote the development outcomes that are in the County's best interest, including economic development.

The Unified Development Ordinance (UDO) currently under consideration presents the County Commissioners with an opportunity to create a tool which can foster the economic development activity desired by the Commissioners and County citizens alike. Additionally, the UDO will be the central instrument for shaping the direction of all development for many years to come. As such, the Commissioners can use the UDO to not only achieve these outcomes, but also to affirm the County's desire for more vibrant economic activity. Perhaps most importantly, the UDO is one of the few policy tools regarding land use planning – and therefore economic development – that is nearly 100% at the discretion of the Commissioners.

The Village Project agrees with the County Economic Development Commission which advised the Commissioners to "complete all phases of the Unified Development Ordinance effort within a timeframe that establishes confidence with developers, investors, and business owners and also results in a reduction in the time needed for a project to go from application to permit issuance and into construction."

The Village Project especially recommends that the Commissioners task the planning department, in Phase II, to modify the existing rules and regulations such that the regulatory environment – at a minimum – compares favorably to neighboring jurisdictions. In other words,

we support having a “level playing field” in which development approval timelines and developer costs in Orange County are no longer significantly more expensive and/or time-consuming than those found elsewhere in the Research Triangle and eastern Triad regions.”

Mark O’Neal said that he has been a resident of Orange County most of his life and he thanked the staff and Planning Board for completing this task. He said that the County needs to set a tone for Phase II implementation. The property owners need to have a predictable, more streamlined process, which constantly supports economic development. He said that when Durham County passed its UDO a few years back they had to stop and review their land use policies. He said that the business community has the same problem. Whenever they consider Orange County, they first have to look at the timelines, investment, and the risk. Orange County needs available property.

Jeremy Browner is an attorney in Chapel Hill and he said that he disagreed with the emails that have been submitted by the public in that the County needs to stay on its current timeline and should not be pushed back because it is of absolute importance. A delay of six months would be very detrimental to the County in terms of trying to develop businesses. He said that the UDO is very complex, but he believes that it should not be extended.

Carolyn Crissman lives in Cheeks Township. She said that she works for a small business and she is a 30-year resident of the County. She said that they all share one goal to increase the County’s prosperity to maintain the quality of life. To meet this goal, the County must be transformed into something more resilient. The current regulations discourage innovation. The UDO will be more clear, fair, and progressive and could be the foundation of making Orange County resilient instead of brittle.

**Written comments (emails, etc.)**

From: Betsy Smith <betsys@nc.rr.com>

Date: Mon, 22 Nov 2010 09:27:57 -0500

Subject: Unified Development Ordinance: please slow down!

To: bjacobs@co.orange.nc.us, bpelissier@co.orange.nc.us, gordon.alice@gmail.com, mikenelsonnc@aol.com, Vfoushee@co.orange.nc.us, phemming@bellsouth.net, syuhasz@co.orange.nc.us

Dear Board members - I just recently learned of the proposed Unified Development Ordinance at a recent CH Town Council meeting and I am very concerned. This proposed effort to simplify the development process for the sake of improving economic development on first glance appears to favor developers over the concerns of residents and the ordinance itself appears to be fast-tracked with little opportunity for public input or even any attempt to make the proposed changes clear to those who would be most affected by it. Thus I would urge you to postpone the vote on the UDO, extend the timeline to something that is more reasonable given the scope of the changes (and the size of the document!), and make a sincere effort to engage the public in discussions of how development should proceed within Orange County and if we should use this new proposed process.

We all know that development simply for the sake of economic reasons is unsustainable and often leads to unintended consequences with associated unplanned for costs.

thank you,

Betsy Smith  
1412 US Hwy 15/501  
Orange County

To the Orange County Commissioners,

With regard to the Unified Development Ordinance (UDO) to be reviewed at tonight's Board of County Commissioners quarterly meeting, Preserve Rural Orange requests that you extend the UDO decision-making process to ensure that citizens understand the proposed changes and have opportunities to respond after the meeting and before changes are adopted. In particular, we are concerned with new language on conditional zoning which appears to allow for increased development without the protection of the special use permit application process used previously for planned developments.

The UDO is a very large document, requiring considerable time for non-experts to navigate. We ask you to seek feedback from the public following the quarterly meeting, in order to give citizens a chance to respond to specific issues raised by BOCC and Planning Board members and to understand fully the potential impacts of proposed changes.

Thank you,  
-Laura Streitfeld

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Laura Streitfeld  
Chair, Board of Directors, Preserve Rural Orange

Email [info@preserveruralorange.org](mailto:info@preserveruralorange.org)  
Phone (919) 801-7294

Preserve Rural Orange  
P.O. Box 1314  
Carrboro, NC 27510

From: gkneeb@aol.com  
Date: Sun, 21 Nov 2010 18:04:19 -0500  
Subject: UDO proposal needs further consideration and input  
To: bjacobs@co.orange.nc.us, bpelissier@co.orange.nc.us, gordon.alice@gmail.com, mikenelsonnc@aol.com, phemminge@bellsouth.net, syuhasz@co.orange.nc.us, vfoushee@co.orange.nc.us  
Cc: pennyrich.ch@gmail.com, randee.haven-odonnell@da.org

November 21, 2010

Dear Members of the County Board Of Commissioners:

During the November 15, 2010 meeting of the Chapel Hill Town Council, I noted Penny Rich's request for further information regarding the Unified Development Ordinance which is being discussed during your November 22 meeting.

As the organizer for a group of citizens who are concerned about the proposed Obey Creek project in Southern Chapel Hill, I am curious as to the impact this new process will have on the rural buffer and extraterritorial districts in Chapel Hill and Carrboro.

A search on the Chapel Hill News and Carrboro Citizen websites show only one reference to this major endeavor – an announcement of a public hearing in August. The article announced

that the UDO would provide “ a more user-friendly, understandable document by incorporating all land use development regulations into a central document and eliminate inconsistencies among ordinances.”

For most, this seems like a housekeeping item, not a major change in policy and would not have solicited public interest.

The article makes no mention of changes in the zoning process through the introduction of “conditional zoning districts” and “conditional uses”. There is no mention of the Board’s intention to eliminate the Special Use Permit which provides protection for the residents of Orange County .

Given that the 800 page, updated document was only posted on the website in mid-November and that there has been very little notice or explanation given to the public through the newspapers, it seems that the County Commissioners should revise the current time line and offer the appropriate public hearings and opportunities for public input based on a more accurate description of the process that is unfolding.

Sincerely,

Jeanne Brown

104 Beechridge Court

Chapel Hill, NC 27517

**From:** Julie McClintock [mailto:mcclintock.julie@gmail.com]

**Sent:** Monday, November 22, 2010 2:58 PM

**To:** Valerie Foushee

**Subject:** Land Use Ordinance

Dear Valerie

I understand that you will be discussing the Unified Development Ordinance tonight, November 22.

With this document, the County is contemplating large changes in the zoning process and a scheduled vote in early December.

I am involved in a group that encourages managed growth in Chapel Hill and we would be interested in providing comment to you after we have a chance to fully analyze the document.

I request that you reconsider your schedule and provide more opportunities for public input.

This input could take the form of several presentations in January with opportunities for questions and answer sessions in various parts of the County, as well as a public hearing at a time when people are not involved in celebrating a major holiday.

One particular concern is the new conditional use zoning which can allow large development projects to pop up in areas that would be expensive to serve with urban services such as water and sewer. This type of zoning would be similar to a "floating zone" which could change precipitously well-established land use policies in disregard of the careful planning that the County has pursued for many years.

Please alter your review schedule and allow maximum opportunities for public input.

Thank you for considering this important issue.

--Julie

Julie McClintock  
614 Beech Tree Ct  
Chapel Hill, NC 27514  
919-967-3661  
[mcclintock.julie@gmail.com](mailto:mcclintock.julie@gmail.com)

**From:** Lorraine McBride [mailto:[lmcbride@aol.com](mailto:lmcbride@aol.com)]  
**Sent:** Monday, November 22, 2010 2:58 PM  
**To:** Barry Jacobs; Bernadette Pelissier; [gordon.alice@gmail.com](mailto:gordon.alice@gmail.com); Mike Nelson (External); Pam Hemminger (External); Steve Yuhasz; Valerie Foushee  
**Subject:** Request to slow down UDO proposal

The UDO proposal process is moving too quickly. **Please slow it down!** The onerously long document includes some significant changes in the County zoning process that merit more opportunities for citizen education and input. Of particular concern to me are changes to the Rural Buffer Zone and extraterritorial districts since I live in an unincorporated part of the county.

Thanks for your consideration.

Regards,

Lorraine Belden McBride  
1418 Gray Bluff Trail  
Chapel Hill, NC 27517

From: Linda Finch <[fotofrieze@nc.rr.com](mailto:fotofrieze@nc.rr.com)>  
Date: Sun, 21 Nov 2010 22:40:47 -0500  
Subject: Unified Development Ordinance (UDO)  
To: Barry Jacobs <[bjacobs@co.orange.nc.us](mailto:bjacobs@co.orange.nc.us)>, Bernadette Pelissier <[bpelissier@co.orange.nc.us](mailto:bpelissier@co.orange.nc.us)>, Alice Gordon <[gordon.alice@gmail.com](mailto:gordon.alice@gmail.com)>, Mike Nelson <[mikenelsonnc@aol.com](mailto:mikenelsonnc@aol.com)>, Pam Hemminger <[pphemminger@bellsouth.net](mailto:pphemminger@bellsouth.net)>, Steve Yuhasz <[syuhasz@co.orange.nc.us](mailto:syuhasz@co.orange.nc.us)>, Valerie Foushee <[Vfoushee@co.orange.nc.us](mailto:Vfoushee@co.orange.nc.us)>  
Cc: Haw River Assembly <[info@hawriver.org](mailto:info@hawriver.org)>, [info@preserveruralorange.org](mailto:info@preserveruralorange.org)

Dear Members of the County Board of Commissioners:

Only this evening have I become aware of some of the content of the proposed Unified Development Ordinance (UDO), that you will be discussing during your meeting tomorrow, November 22, 2010. As a member of Preserve Rural Orange, Citizens for Responsible Growth and the Haw River Assembly, I am extremely concerned that this document is not just "organizing" land use development regulations but could be fundamentally changing the way development is conducted in this County.

I don't believe the general public nor architects like myself, have been made aware that this document introduces "conditional zoning districts" and "conditional uses." There is no public understanding that the Planning Board intends to eliminate the Special Use Permit which

provides the residents of Orange County special protections. There has been no discussion as to the impact this new process will have on the rural buffer and extraterritorial districts in Chapel Hill and Carrboro.

Given that the 800 page, updated document was only posted on the website in mid-November and that there has been very little notice or explanation given to the public through the newspapers, it seems that the County Commissioners should revise the current time line and offer the appropriate public hearings and opportunities for public input based on a more accurate description of the process that is unfolding.

Sincerely,

Linda Finch, Architect  
1438 Gray Bluff Trail  
Chapel Hill, NC 27517

From: Kurt Riitters <kriitters@nc.rr.com>  
Date: Mon, 22 Nov 2010 06:29:18 -0500  
Subject: Unified Development Ordinance  
To: Barry Jacobs <bjacobs@co.orange.nc.us>, Bernadette Pelissier <bpelissier@co.orange.nc.us>, gordon.alice@gmail.com, Mike Nelson <mikenelsonnc@aol.com>, Pam Hemminger <phemminger@bellsouth.net>, Steve Yuhasz <syuhasz@co.orange.nc.us>, Valerie Foushee <Vfoushee@co.orange.nc.us>

Dear Board Members,

As a resident of Orange County I request that you (a) postpone the vote on the UDO, (b) extend the timeline for this process, and (c) make a sincere effort to educate the public about the purpose and consequences of the 800-page document which was released only 11 days ago.

Thank you,  
Kurt Riitters  
1412 US Highway 15-501 South  
Chapel Hill

From: John or Yvonne Schmidt <schmidj@nc.rr.com>  
Date: Sun, 21 Nov 2010 22:24:57 -0500  
Subject: Unified Development Ordinance  
To: bjacobs@co.orange.nc.us, bpelissier@co.orange.nc.us, gordon.alice@gmail.com, mikenelsonnc@aol.com, phemminger@bellsouth.net, syuhasz@co.orange.nc.us, Vfoushee@co.orange.nc.us

Dear Commissioners,

I urge you to postpone the vote scheduled for the Unified Development Ordinance, and to slow things down. This is a long and very complex ordinance and more time needs to be available to provide for information to and input from the public. I don't think it can be properly addressed without advance notice and public hearings. I don't think most of the citizens in Orange County know about it or understand it.

Sincerely,

John E. Schmidt  
1417 Gray Bluff Trail  
Chapel Hill, NC 27517

Commissioner Gordon said that since the boards have agreed to propose a new timeline, she thinks that there is a way to get a balance between the understanding of the process and still move expeditiously. She said that all of the emails are addressed to all of the County Commissioners. She submitted two documents (blue sheet and lavender sheet) that she had prepared and commended them to the Planning Board for review. These include a UDO overview document and a document that includes key articles and sections, with comments.

First Document:

## CONSIDERATION OF THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

### A. CONDITIONAL DISTRICTS

Conditional Districts (floating zoning districts) can have a significant effect on development in Orange County. Therefore it is important that citizens are not only aware that this new type of zoning district is being proposed, but that they also have time to understand the implications of the two new conditional districts.

1. Conditional Use District (CUD). Except for certain exclusions, it appears that for a Conditional Use District, any use permitted in the Table of Permitted Uses can potentially go almost anywhere in Orange County's planning jurisdiction. Whether that is true or not needs to be clarified, and the ambiguity eliminated. If it is true, here is a list of some of the uses that could be permitted almost anywhere:

Banks & financial institutions; kennels; laundry & dry cleaning services; massage (business); night clubs, bars, pubs; offices & personal services; restaurants; retail; storage or warehousing; assembly & packaging operations; animal hospitals, veterinarians; health services (under 10,000 square feet); rehabilitative care facility; rooming house; motor vehicle sales & rental; motor vehicle services stations; parking as a principal use (surface or structure); assembly facility (i.e. place for people to meet?); research lands and installations; special events.

2. Conditional Zoning Districts (CZDs). It appears that these floating zoning districts can be placed in any of the general zoning districts, as long as the regulations associated with each specific district are followed. Also, in contrast to the current zoning ordinance (for Planned Developments), no Special Use Permit (SUP) is required for CZDs. Thus the Board of County Commissioners (BOCC) has more discretion over whether to approve a rezoning request for a CZD than it would in approving a SUP which requires making a quasi-judicial decision that must be based on competent, substantial evidence presented at a public hearing.

### B. UDO CHANGES

There have been many changes between the Unified Development Ordinance (UDO) discussed earlier this fall and the final document brought to the November 22 Quarterly Public Hearing. In addition, this document was not available to the public until less than two weeks before the hearing. Furthermore, the Chapel Hill Town Council and Carrboro Board of Aldermen need a chance to review the UDO to ascertain how it applies to the areas covered by the Joint Planning Agreement.

#### C. ADDITIONAL TIME FOR REVIEW

Because of the proposed addition of floating zoning districts (Conditional Districts) which is a significant change to Orange County's current zoning ordinance, and the number of changes that were incorporated into the extremely large UDO document brought to this public hearing, the Commissioners should allow more time for the public, the towns, the Planning Board, and the BOCC itself to assess how the changes will impact all of us.

AMG 11/22/2010

Second document:

#### UNIFIED DEVELOPMENT ORDINANCE - KEY ARTICLES AND SECTIONS

The Planning Board should review all articles in the UDO, and then vote on whether or not they recommend approval.

##### I. KEY ARTICLES

The following articles should be reviewed with special care.

Articles 2, 3, 4, 5, 6, 7 and related definitions in Article 10.

##### II. KEY SECTIONS

In addition, there are some key sections to be reviewed. They include, but are not necessarily limited to, the following sections.

###### A. CONDITIONAL DISTRICTS

Here are the sections (that I have identified so far) that cover Conditional Districts. There are also definitions in Article 10.

Conditional Districts, Sec 2.9, pp. 2-38 through 2-46

Conditional Districts, Sec. 3.7, pp. 3-62 through 3-72

Conditional Uses, Sec. 5.1.4, pp. 5-3 through 5-5

Table of Permitted Uses, Sec. 5.2, beginning on p. 5-6

Additional Standards for MPD-CZD, Sec. 6.7. pp. 6-54 through 6-63

## B. RURAL BUFFER AND JOINT PLANNING AGREEMENT

Here are the sections (that I have identified so far) that are related to the Rural Buffer and Joint Planning Agreement. Also related are the sections listed above for Conditional Districts.

Applications for Amendment - Joint Planning Area - Sec. 2.8.4 - pp. 2-35 and 2-36

Residential Districts, Rural Buffer, pp. 3-2 and 3-3

Conditional Uses, Sec. 5.1.4, pp. 5-3 through 5-5

Table of Permitted Uses, Sec. 5.2, beginning on p. 5-6

Additional Standards for MPD-CZD, Sec. 6.7. pp. 6-54 through 6-63

Cluster Developments, Application Criteria for the Rural Buffer Zoning District, Sec. 7.12, pp. 7-48 and 7-49

## C. OTHER COMMENTS

Here are other sections that need review. Note that there is some overlap with sections described above.

Review all sections shown in green type. Also, all sections that are new, and not simply related to consolidation of the county's ordinances, should be reviewed.

Review all sections and definitions related to Site Plan, Site Specific Development Plan, and Plot Plan. (For example, look at Sec. 2.4.1, 2.4.2, 2.4.3, pp. 2-10 through 2-12). Also note that there is no definition of "Plot Plan" in Article 10.

Review the changes related to Special Use Permits. For example, look at Sec. 2.7, starting on p. 2-24.

Review the requirements for public hearings. For example, Sec. 2.8.6, p. 3-36 deletes the dates for the quarterly public hearings (February, May, August, November). These dates were specified so the public would be able to keep track of when these important hearings were to be held.

Clarify where "institutional uses" and "professional services" can be found in the Table of Permitted Uses. It appears that there are no categories (e.g. "commercial uses") corresponding to these uses.

Review the significance of the requirements and changes related to "wastewater treatment facility." For example, see page 3-3, bullet 6. Also note that in this bullet "Conditional Use (CU) District" is not in red type, even though these words are new.

Review the significance of the requirements related to "minimum usable area for lots that utilize ground absorption wastewater systems." For example, see page 3-7, bullet 5.

There are surely other sections that need further review, but these are the ones I have identified

so far.

AMG 11/22/2010

Brian Crawford said that the Planning Board has heard that there is still some work to do. He said that he would take time with the staff before the next Planning Board meeting to structure these comments in a productive way for the next meeting. He has heard that there needs to be a balance between Phase I and Phase II.

Craig Benedict said that the recommendation is to keep the public hearing open. He suggested keeping it open until December 14<sup>th</sup> (last County Commissioners' meeting) and the recommendation will be brought back with the new date for decision.

A motion was made by Commissioner Gordon, seconded by Commissioner Jacobs to receive the proposed Unified Development Ordinance, accept public, BOCC, and Planning Board comments, refer the matter to the Planning Board with a request that by the BOCC meeting on December 14, 2010 the Planning Board will recommend a revised timeline for the adoption of the Unified Development Ordinance to give more time for review and comment, and that the timeline will not exceed this fiscal year.

VOTE: UNANIMOUS

**D. ADJOURNMENT OF PUBLIC HEARING**

A motion was made by Commissioner Hemminger, seconded by Commissioner Jacobs to adjourn the public hearing at 8:26 PM.

VOTE: UNANIMOUS

Valerie Foushee, Chair

Donna S. Baker, CMC  
Clerk to the Board