

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, October 2, 2013
Ordinance Review Committee Meeting – 5:45 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 a Quarterly Public Hearing agenda. Attendance is not mandatory and a quorum is not necessary for meetings of the ORC.

Because this meeting is starting earlier than usual ORC meetings, foods comprising a light supper will be available for Planning Board members.

No.	Page(s)	Agenda Item
1.		CALL TO ORDER
2.	3-46	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – TELECOMMUNICATION FACILITIES To review and comment upon proposed revisions to the UDO regarding Telecommunication Facilities. This amendment is in response to Session Law 2013-185. Presenter: Michael Harvey, Current Planning Supervisor
3.	47-70	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – BOARD OF ADJUSTMENT OPERATION To review and comment upon proposed revisions to the UDO related to Board of Adjustment operation. This amendment is in response to Session Law 2013-126. Presenter: Michael Harvey, Current Planning Supervisor
4.	71-88	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – HOME OCCUPATIONS To review and comment upon proposed revisions to the UDO regarding Home Occupation standards. Presenter: Ashley Moncado, Special Projects Planner

<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
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5.	89-169	UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – AGRICULTURAL SUPPORT ENTERPRISES
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To review and comment upon proposed revisions to the UDO to implement a program commonly referred to “Agricultural Support Enterprises.”

Presenter: Perdita Holtz, Planning Systems Coordinator

6.		ADJOURNMENT
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**ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 2, 2013**

**Action Agenda
Item No. 2**

SUBJECT: Review of Proposed UDO Text Amendments Related to Telecommunication Facilities

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Comprehensive Plan and Unified Development Ordinance Outline Form (UDO & Zoning 2013-04) and Session Law 2013-185 2. Draft UDO Amendment Package | <p>Michael D. Harvey, Planner III (919) 245-2597
Craig Benedict, Director (919) 245-2575</p> |
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PURPOSE: To review and comment upon a Planning Director initiated UDO text amendment package concerning the processing, review, and approval of applications for telecommunication facilities.

BACKGROUND: Session Law 2013-185, adopted on June 26, 2013, has modified how local governments process new telecommunication tower applications. There are also new standards, and time limits, associated with the review of equipment change outs and antenna co-location(s) on existing towers.

Staff is proposing to revise existing language within the UDO to ensure consistency with State law. For additional background, and a copy of the Session Law, please refer to Attachment 1. Attachment 2 contains the text of the proposed UDO amendment.

Various County staff are also currently reviewing the proposed amendments so there may be changes made in response to any staff comments received.

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 accordingly.

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

UDO / Zoning-2013-04

UDO Text Amendment(s) incorporating recent changes in State law concerning the
regulation of telecommunication facilities

A. AMENDMENT TYPE

Map Amendments

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

Text Amendments

- Comprehensive Plan Text:

Section(s):

- UDO Text:

- UDO General Text Changes
 UDO Development Standards
 UDO Development Approval Processes

Section(s): Section 5.10 *Standards for Telecommunication Facilities* inclusive of the UDO to incorporate recent changes to State law with the processing of new applications and equipment change out requests for telecommunication towers.

- 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 incorporate recent changes in State Law, specifically Session Law 2013-185, related to the processing and review of applications for new telecommunication facilities or equipment/antenna change outs.

The Session Law, adopted on June 26, 2013 modifies establishes new criteria related to the processing of applications, including:

1. Local governments can no longer require information concerning the specific need for the proposed wireless support structure, including if the proposal seeks to add additional wireless coverage or capacity, as part of the application package.
2. Local governments cannot require '*proprietary, confidential, or other business information*' to justify the need for a new telecommunication facility.
3. Limits the fee local governments can collect for a consultant to review applications for co-locations (i.e. equipment change out) to \$1,000.00.
4. Mandates review timelines/deadlines for a local government to act on co-location applications. The Session Law establishes a 45 day time limit on review so long as the application is complete.

A copy of the Session Law can be found in at the end of this form.

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 our process is consistent with recent changes in State Law.

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

4. **New Statutes and Rules**

Session Law 2013-185 *An Act to Facilitate the Deployment of Mobile Broadband and other Enhanced Wireless Communication Services by Streamlining the Processes Uses by State Agencies and Local Governments to Approve the Placement of Wireless Facilities in their Jurisdictions* (included at the end of this form).

C. PROCESS

1. **TIMEFRAME/MILESTONES/DEADLINES**

- a. BOCC Authorization to Proceed

September 5, 2013

b. Quarterly Public Hearing

November 25, 2013

c. BOCC Updates/Checkpoints

October 2, 2013 – Planning Board Ordinance Review Committee (ORC) (BOCC members can read agenda materials.)

November 5, 2013 – BOCC members approve the legal advertisement for the November 25, 2013 Quarterly Public Hearing.

November 25, 2013 – Quarterly Public Hearing with this item on the agenda.

January 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

a. Planning Board Review:

October 2, 2013 – Ordinance Review Committee (ORC).
December 4, 2013 – Recommendation

b. Advisory Boards:

c. Local Government Review:

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 our current telecommunication consultant, the Center for Municipal Solutions, to review and comment on the amendments. 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.

D. AMENDMENT IMPLICATIONS

Language within the UDO will be consistent with recent modifications to State law.

E. SPECIFIC AMENDMENT LANGUAGE

See Attachment 2 for draft language, which is currently being reviewed by various County staff members.

Primary Staff Contact:

Michael D. Harvey

Planning

(919) 245-2597

mharvey@orangecountync.gov

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-185
HOUSE BILL 664**

AN ACT TO FACILITATE THE DEPLOYMENT OF MOBILE BROADBAND AND OTHER ENHANCED WIRELESS COMMUNICATIONS SERVICES BY STREAMLINING THE PROCESSES USED BY STATE AGENCIES AND LOCAL GOVERNMENTS TO APPROVE THE PLACEMENT OF WIRELESS FACILITIES IN THEIR JURISDICTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 160A of the General Statutes reads as rewritten:

"Part 3E. Wireless Telecommunications Facilities.

"§ 160A-400.50. Purpose and compliance with federal law.

(a) The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(a1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a city's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

"§ 160A-400.51. Definitions.

The following definitions apply in this Part.

- (1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (2) Application. – A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.
- (2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.
- (3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.
- (4) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.~~The installation of~~



- ~~new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.~~
- (4a) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
- (5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located. ~~Equipment enclosure.~~ – ~~An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~
- (5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (6) Land development regulation. – Any ordinance enacted pursuant to this Part.
- (7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
- (7a) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.
- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
- (8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.
- (8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.
- (9) Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, ~~receivers~~-base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.
- (10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

§ 160A-400.51A. Local authority.

A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements.

consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"§ 160A-400.52. Construction of new wireless support structures or substantial modifications of facilities and wireless support structures.

(a) ~~A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.~~

(b) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure or wireless facility within the planning and land-use jurisdiction of a city must do both of the following:

- (1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.
- (2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A city's review of an application for the ~~placement, construction,~~ placement or construction of a new wireless support structure or substantial modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the city may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A city may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A city may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application, the city may review the following:

- (1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
- (2) Information or materials directly related to an identified public safety, land development, or zoning issue including evidence that no existing or previously approved wireless support structure can reasonably be used for the ~~antenna~~ wireless facility placement instead of the construction of a new ~~tower~~ wireless support structure, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new ~~tower~~ wireless support structure or initial ~~antenna~~ wireless facility placement or a proposed height increase of a substantially modified tower wireless support structure, or replacement ~~tower~~ wireless support structure ~~or collocation~~ is necessary to provide the applicant's designed service.
- (3) A city may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the ~~tower~~ existing wireless support structure is unwilling to enter into a contract for such use at fair market value. Cities may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(d) ~~A collocation application entitled to streamlined processing under G.S. 160A-400.53 shall be deemed complete unless the city provides notice in writing to the~~

~~applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.~~

~~(e) The city shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 160A-400.53 and under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.~~

(f) A city may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a city on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the city in connection with the regulatory review authorized under this section. The foregoing does not prohibit a city from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a city for review of the application may not be used for either of the following:

- (1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.
- (2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(g) The city may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A city shall not deny an initial land-use or zoning permit based on such documentation. A city may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The city may not require the placement of wireless support structures or wireless facilities on city owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on city owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"§ 160A-400.53. Collocation and eligible facilities requests of wireless support structures, facilities.

~~(a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a city may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A city may require an application for collocation or an eligible facilities request. Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.~~

(a1) A collocation or eligible facilities request application is deemed complete unless the city provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A city may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A city may not deem an application incomplete for any issue not directly

related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

(a2) The city shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the city shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

(a3) A city may impose a fee not to exceed one thousand dollars (\$1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A city may engage a third-party consultant for technical consultation and the review of a collocation application. The fee imposed by a city for the review of the application may not be used for either of the following:

- (1) Travel expenses incurred in a third-party's review of a collocation application.
- (2) Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.

~~(b) Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.~~

~~(c) The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:~~

- ~~(1) The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.~~
- ~~(2) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.~~
- ~~(3) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.~~
- ~~(4) The additional wireless facilities comply with all federal, State and local safety requirements.~~
- ~~(5) The collocation does not exceed the applicable weight limits for the wireless support structure."~~

SECTION 2. Article 18 of Chapter 153A of the General Statutes reads as rewritten:

"Part 3B. Wireless Telecommunications Facilities.

"§ 153A-349.50. Purpose and compliance with federal law.

(a) Purpose. – The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.

(a1) The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina and that, consistent with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), which creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, it is the policy of this State to facilitate the placement of wireless communications support structures in all areas of North Carolina. The following standards shall apply to a county's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility.

(b) Compliance with the Federal Communications Act. – The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332 as amended, section 6409 of the federal Middle Class

Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

"§ 153A-349.51. Definitions.

The following definitions apply in this Part:

- (1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.
- (2) Application. – A formal request submitted to the county to construct or modify a wireless support structure or a wireless facility.
- (3) Building permit. – An official administrative authorization issued by the county prior to beginning construction consistent with the provisions of G.S. 153A-357.
- (4) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.~~The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks.~~
- (4a) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
- (5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located.~~Equipment enclosure. — An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~
- (5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (6) Land development regulation. – Any ordinance enacted pursuant to this Part.
- (7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
- (7a) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.
 - a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
 - b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
 - c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
- (8) Utility pole. – A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

- (8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.
- (9) Wireless facility. – The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, ~~receivers~~-base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.
- (10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

"§ 153A-349.51A. Local authority.

A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities.

"§ 153A-349.52. Construction of new wireless support structures or substantial modifications of facilities and wireless support structures.

~~(a) A county may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a county from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 153A-349.50. For purposes of this Part, public safety shall not include requirements relating to radio frequency emissions of wireless facilities.~~

(b) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure or wireless facility within the planning and land-use jurisdiction of a county must do both of the following:

- (1) Submit a completed application with the necessary copies and attachments to the appropriate planning authority.
- (2) Comply with any local ordinances concerning land use and any applicable permitting processes.

(c) A county's review of an application for the placement, construction, placement or construction of a new wireless support structure or substantial modification of a wireless facility or wireless support structure shall only address public safety, land development, or zoning issues. In reviewing an application, the county may not require information on or evaluate an applicant's business decisions about its designed service, customer demand for its service, or quality of its service to or from a particular area or site. A county may not require information that concerns the specific need for the wireless support structure, including if the service to be provided from the wireless support structure is to add additional wireless coverage or additional wireless capacity. A county may not require proprietary, confidential, or other business information to justify the need for the new wireless support structure, including propagation maps and telecommunication traffic studies. In reviewing an application the county may review the following:

- (1) Applicable public safety, land use, or zoning issues addressed in its adopted regulations, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
- (2) Information or materials directly related to an identified public safety, land development or zoning issue including evidence that no existing or

previously approved wireless support structure can reasonably be used for the ~~antenna-wireless facility placement~~ instead of the construction of a new ~~tower-wireless support structure~~, that residential, historic, and designated scenic areas cannot be served from outside the area, or that the proposed height of a new ~~tower-wireless support structure~~ or initial ~~antenna-wireless facility placement~~ or a proposed height increase of a substantially modified tower-wireless support structure, or replacement ~~tower-wireless support structure~~ or collocation is necessary to provide the applicant's designed service.

- (3) A county may require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the ~~tower-existing wireless support structure~~ is unwilling to enter into a contract for such use at fair market value. Counties may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

~~(d) A collocation application entitled to streamlined processing under G.S. 153A-349.53 shall be deemed complete unless the city provides notice in writing to the applicant within 45 days of submission or within some other mutually agreed upon timeframe. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.~~

~~(e) The county shall issue a written decision approving or denying an application within 45 days in the case of collocation applications entitled to streamlined processing under G.S. 153A-349.53 and under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.~~

(f) A county may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site new wireless support structures or to substantially modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by a county on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the county in connection with the regulatory review authorized under this section. The foregoing does not prohibit a county from imposing additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant. The fee imposed by a county for review of the application may not be used for either of the following:

- (1) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.
- (2) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(g) The county may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. A county shall not deny an initial land-use or zoning permit based on such documentation. A county may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(h) The county may not require the placement of wireless support structures or wireless facilities on county owned or leased property, but may develop a process to encourage the placement of wireless support structures or facilities on county owned or leased property, including an expedited approval process.

(i) This section shall not be construed to limit the provisions or requirements of any historic district or landmark regulation adopted pursuant to Part 3C of this Article.

"§ 153A-349.53. Collocation and eligible facilities requests of wireless support structures, facilities.

(a) Pursuant to section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), a county may not deny and shall approve any eligible facilities request as provided in this section. Nothing in this Part requires an application and approval for routine maintenance or limits the performance of routine maintenance on wireless support structures and facilities, including in-kind replacement of wireless facilities. Routine maintenance includes activities associated with regular and general upkeep of transmission equipment, including the replacement of existing wireless facilities with facilities of the same size. A county may require an application for collocation or an eligible facilities request. ~~Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review.~~

(a1) ~~A collocation or eligible facilities request application is deemed complete unless the county provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. A county may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. A county may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.~~

(a2) ~~The county shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the county shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.~~

(a3) ~~A county may impose a fee not to exceed one thousand dollars (\$1,000) for technical consultation and the review of a collocation or eligible facilities request application. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of a collocation application. A county may engage a third-party consultant for technical consultation and the review of a collocation or eligible facilities request application. The fee imposed by a county for the review of the application may not be used for either of the following:~~

- (1) ~~Travel expenses incurred in a third party's review of a collocation application.~~
- (2) ~~Reimbursement for a consultant or other third party based on a contingent fee basis or results-based arrangement.~~

(b) ~~Applications for collocation of wireless facilities are entitled to streamlined processing if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.~~

(c) ~~The streamlined process set forth in subsection (a) of this section shall apply to all collocations, in addition to collocations qualified for streamlined processing under subsection (b) of this section, that meet the following requirements:~~

- (1) ~~The collocation does not increase the overall height and width of the tower or wireless support structure to which the wireless facilities are to be attached.~~
- (2) ~~The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.~~
- (3) ~~The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.~~
- (4) ~~The additional wireless facilities comply with all federal, State, and local safety requirements.~~

- (5) ~~The collocation does not exceed the applicable weight limits for the wireless support structure."~~

SECTION 3. G.S. 146-29.2 reads as rewritten:

"§ 146-29.2. Lease provisions for communications towers or interest in real property for communication purposes.

(a) The following definitions apply in this section:

- (1) Antenna. – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
- (2) Buildings. – Structures owned or leased by the State on which equipment may be placed or attached.
- (3) Collocation. – The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable building and line safety codes.
- (4) Equipment. – Antennas, transmitters, receivers, cables, wires, transformers, power supplies, electric and communication lines necessary for the provision of television broadcast signals, radio wave signals, wireless data or wireless telecommunication services to a discrete geographic area, and all other apparatuses and appurtenances, including shelters, cabinets, buildings, platforms, and ice bridges used to house or otherwise protect equipment.
- (5) Ground area. – The area of real property surrounding the base of towers on which the equipment and appurtenances necessary for the operation and stability of the towers, including guy wires and security fencing, are constructed or installed.
- (6) Provider. – Any person that is engaged in the transmission, reception, or dissemination of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communications service, or the provisioning of wireless infrastructure.
- (7) Tower. – New or existing structures, such as a monopole, lattice tower, guyed tower, fire observation tower or water tower that are designed to support or are capable of supporting equipment used in the transmission or receipt of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communication service.

(b) The State may lease real property, or may grant an easement or license with an interest in real property for the following communication purposes:~~any interest in real property, for the purposes of~~

- (1) ~~construction and placement of communications~~Constructing, installing, and operating towers and equipment on State land, land or for placement of antennas upon State-owned structures.
- (2) Installing and operating equipment on towers, buildings, or ground area owned or leased by the State.

(c) If otherwise feasible and determined by the Department of Administration to be in the best interest of the State:

- (1) New towers constructed on State land shall be designed for collocation. This requirement shall not apply to towers constructed on State land by the State or any of its agencies or by a "public entity" as that term is defined in G.S. 146-29.1(b).
- (2) The State shall encourage the collocation of equipment on existing towers and buildings owned by the State.
- (3) The State shall sublease for collocation purposes space on any tower or ground area leased by the State, if allowed under the terms of the lease.
- (4) The State shall, to the extent practicable, adopt standard terms and conditions for applications to lease, easements, or other conveyances of an interest in real property for communication purposes.

(d) Pursuant to G.S. 143-341(4)f., the Governor, acting with the approval of the Council of State, may adopt rules authorizing the Department of Administration to enter into or approve

classes of leases, easements, or licenses with an interest in real property for the purposes set forth in this section. The rules may allow for execution of leases or other instruments by the Department of Administration rather than execution of the instruments in the manner prescribed in G.S. 146-74 through G.S. 146-78.

(e) Land in the State Parks System, as defined in G.S. 113-449.9, may only be leased or conveyed for the purposes of this section upon the approval of the Secretary of the Department of Environment and Natural Resources. Lease or conveyance of land in the State Parks System for the purposes of this section shall comply with the requirements of Articles 2 and 2C of Chapter 113 of the General Statutes. When selecting a location for a communications tower or antenna in the State Parks System, the State shall choose a location that minimizes the visual impact on the surrounding landscape. No land acquired or developed using funds from the Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this section.

~~The following additional requirements shall apply to such leases:~~

- ~~(1) The lease shall require the lessee to permit other telecommunications carriers to co-locate on the communications tower on commercially reasonable terms between the lessee and the co-locating carrier until the communications tower reaches its capacity. Unless the State determines that co-location is not feasible at that location, the communications tower shall be designed and constructed to accommodate other carriers on the tower.~~
- ~~(2) The State shall, in determining the location of lands to be leased for communications towers, encourage communications towers to be located near other communications towers to the extent technically desirable.~~
- ~~(3) The State shall, when choosing a communications tower or antenna location, choose a location which minimizes the visual impact on surrounding landscape.~~
- ~~(4) The State shall not lease lands of the State Parks System for such purposes.~~

~~For purposes of this section, "co-locate and co-location" mean the sharing of a communications tower by two or more services.~~

~~(f) City and county ordinances apply to communications towers and antennas authorized under this section."~~

SECTION 4. Sections 1 and 2 of this act become effective October 1, 2013, and apply to applications received on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2013.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:08 p.m. this 26th day of June, 2013

Staff is including all of Section 5.10 to serve as a reference with respect to applicable regulations governing the review/permitting of telecommunication facilities. Only those sections appropriately marked are being amended.

The facility shall be removed within 12 months from the date the applicant ceases use of the facility.

Once the infrastructure is removed the property, the owner shall obtain the necessary Erosion Control permits to re-stabilize the property. The time frame for completion shall be determined by the Orange County Erosion Control Officer.

The owner shall provide financial security in form and amount acceptable to the County to secure the expense of dismantling and removing said structures.

Upon removal of the facility, the Department shall cause a notice to be recorded within the Orange County Registrar of Deeds office indicating that the Class A Special Use Permit has been revoked.

SECTION 5.10: STANDARDS FOR TELECOMMUNICATION FACILITIES

5.10.1 Intent

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

5.10.2 Master Telecommunications Plan ("Plan")

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

Director shall inform interested parties that the property has been withdrawn from consideration. Removal of the property from the Plan shall be processed as a modification as detailed herein.

5.10.3 Annual Telecommunications Projection Meeting (ATPM)

(A) Purpose and Outcome

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

(B) Applicability

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

(C) Meeting Specifics

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

A mounting is presumed to constitute a substantial modification if it meets any one or more of the following criteria:

- (i) Increasing the existing vertical height of the structure by the greater of:
 - a. More than 10% or
 - b. The height of 1 additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (ii) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of:
 - a. More than 20 feet or
 - b. More than the width of the wireless support structure at the level of the appurtenance.
- ~~(a)(iii) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.~~

Notwithstanding the provisions detailed herein, any collocation request resulting in the elevation of a telecommunication facility above established permit limitations will be required to secure any additional required permit(s) including, but not limited to, the submittal, review, and approval of a new Special Use Permit based on the modified height of the facility.¹

- ~~(b) The proposed additional facility will not increase the ground space approved in the site plan for equipment enclosures and ancillary facilities.~~²
- ~~(e)(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.
- ~~(d)(c)~~ The proposed additional wireless facilities comply with all federal, State, and local safety requirements.
- ~~(e)(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.

5.10.7 Antennas Not Located on Wireless Telecommunications Support Structures

(A) General Standards

¹ NCGS 153A-349 now allows for modification of an existing, permitted, telecommunication facility under certain set parameters. Staff has included a new definition of 'Substantial Modification – Telecommunication Facility' in Article 10 of the UDO to incorporate this allowance. Staff is including language within the proposal that would require additional permitting if the height of the tower is increased beyond what was originally approved by the County (i.e. over 200 feet required a Class A Special Use Permit).

² Staff deleted this section as new State regulations allows for an increase in existing equipment compounds associated with the review/processing of a collocation application.

- (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.

(B) Standards for Stealth Rooftop or Building, Water Tower, or Transmission Line Mounted Antennas

In addition to the standards established in Subsection A above, the following are applicable to all Stealth Rooftop or Building, Water Tower, or Transmission Line Mounted Antennas:

- (1) Antennas shall not exceed 20 feet above the roofline of the building or support structure, water tank, or transmission line;
- (2) Commercial advertising shall not be allowed on an antenna;
- (3) Signals, lights, or illumination shall not be permitted on an antenna, unless required by the FCC or the FAA;
- (4) Any related unstaffed equipment building shall not contain more than 600 square feet of gross floor area per user or exceed 12 feet in height;
- (5) Documentation shall be required denoting that the erection of an antenna will not compromise the structural integrity of the building, water tank, or transmission line;
- (6) If an antenna is erected on a transmission line, documentation shall be required outlining that the antenna will not interfere, or be interfered with, by the normal operating characteristics of the transmission line;
- (7) If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than 25% of the roof area, and shall comply with all State of North Carolina Building Code requirements for the proposed and existing building; and
- (8) Approval of the Planning Director to ensure consistency with the definition of stealth facility is required. Each application shall contain a rendering or photograph of the antenna including, but not limited to, colors and screening devices.

(C) Standards for Non-Stealth Rooftop or Building, Water Tank or Transmission Line Mounted Antennas

In addition to the standards established in Sub-Section (A) above, the following are applicable to all Non-Stealth Mounted Antennas:

- (1) Antennas shall not exceed 20 feet above the roofline of the subject building or support structure, water tank, or transmission line;

- (2) Antennas shall only be permitted on buildings or structures that are at least 33 feet tall. Antennas may be placed on buildings less than 33 feet tall if public safety needs warrant the antenna;
- (3) Antennas, and related equipment buildings, shall be located or screened to minimize the visual impact of the antenna upon adjacent properties and shall be of a material or color which matches the exterior of the building or structure upon which it is situated;
- (4) Commercial advertising shall not be allowed on an antenna;
- (5) Signals, lights, or illumination shall not be permitted on an antenna, unless required by the FCC or the FAA;
- (6) Any related unstaffed equipment building shall not contain more than 600 square feet of gross floor area per user or be more than 12 feet in height;
- (7) If the equipment building is located on the roof of the building, the area of the equipment building shall not occupy more than 25% of the roof area, and shall comply with all State of North Carolina Building Code requirements for the proposed and existing building;
- (8) Antennas may be located on utility poles pursuant to the following regulations:
 - (a) The maximum height of the pole with antenna shall not exceed 70 feet in height.
 - (b) The utility poles shall be located on public property, within public easements, or public rights-of-way.
 - (c) The antenna shall be of a size and placement that is structurally compatible with the engineering design of the pole pursuant to the North Carolina State Building Code and attested to by a professional engineer licensed in the State of North Carolina, and competent to evaluate antenna choices.
 - (d) The antenna shall not extend more than ten feet above the existing pole height. If the pole is replaced to withstand the addition of telecommunications equipment, then the same restriction shall apply except that the utility pole may be 20 feet higher than the adjacent pole heights.
 - (e) Placement of an antenna on a utility pole shall only be on poles owned or operated by a public utility authorized to operate in the County, a County franchisee, or Orange County.
 - (f) All relocation costs associated with any relocation of the antenna necessitated by roadway or sidewalk improvements shall be borne by the telecommunications provider.

5.10.8 Wireless Telecommunications Support Structures – Submittal and Review Requirements

(A) General Submittal Requirements for all Telecommunication Support Structures

(1) Submittal Requirements

- (a) A site plan and site plan application package prepared in accordance with Section 2.5 shall be presented for approval to the Planning Division including all requirements for site development plan approval as required.
- (b) A detailed description of the proposed telecommunication support structure (i.e. monopole, self-supporting lattice, etc.) including a detailed narrative description and explanation of the specific objective(s) for the new facility including a description as to the coverage and/or capacity, technical requirements, and the identified boundaries of the specific

- geographic area of intended coverage for the proposed telecommunication support structure.
- (c) Elevation drawings and color renderings of the proposed tower showing:
 - (i) The vertical rendition of the telecommunication support structure(s) identifying all users and attachments,
 - (ii) All related fixtures, structures, appurtenances and apparatus including the height of said structures above the lowest adjacent pre-existing grade,
 - (iii) The materials that will be used on site for said structures including their color and any proposed lighting and shielding devices, and
 - (iv) If the facility is intended to be a stealth, as defined herein, the colors and screening devices for the Planning Director to verify consistency with applicable definitions.
 - (d) A signed statement from the applicant certifying that the proposed telecommunication support structure:
 - (i) Shall be maintained in a safe manner,
 - (ii) Is in compliance with all conditions of all applicable permits and authorizations without exception, and
 - (iii) Is in compliance with all applicable and permissible local, State, and Federal rules and regulations.
 - (e) A statement, prepared by a professional engineer licensed in the State of North Carolina, which through rational engineering analysis, certifies the tower's compliance with applicable standards as set forth in the State of North Carolina Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate.
 - (f) A statement stating how the proposed tower will minimize visual intrusiveness to surrounding properties in the area. Criteria that may be used for such evidence may be height and type of existing trees surrounding the proposed tower, and local topography.
 - (g) A copy of the installed foundation design including a geotechnical sub-surface soils investigation, evaluation report, and foundation recommendation for the proposed wireless support structure.
 - (h) The existing cell sites (latitude, longitude, power levels) to which this proposed site will be a handoff candidate.
 - (i) Propagation studies of the proposed site and showing all adjoining planned, proposed, in-service or existing sites. This will include all of the modeling information used to produce the study including, but not limited to, any assumptions made about ambient tree height.
 - (j) The search ring utilized in finding the proposed site.
 - (k) The number, type, height, and model of the proposed antennas along with a copy of the applicable specification sheet(s).
 - (l) The make, model and manufacturer of the tower and antenna(s), antenna heights and power levels of proposed site. This will include documentation establishing the azimuth, size, and centerline height location of all proposed and existing antennas on the structure.
 - (m) The frequency, modulation and class of service of radio or other transmitting equipment.

- (n) The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier.
- (o) The actual intended transmission and the maximum effective radiated power of the antenna(s).
- (p) The direction(s) of maximum lobes and associated radiation of the antenna(s).
- (q) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC.
- (r) Certification that the proposed antenna(s) will not cause interference with other telecommunications devices.
- (s) A written affidavit stating why "the proposed site is necessary for their communications service" (e.g., for coverage, capacity, hole-filling, etc.) and a statement that there are no existing alternative sites within the provided search ring and there are no alternative technologies available which could provide the proposed telecommunications service need without the tower.
- (t) A copy of the FCC license applicable for the intended use of the facility as well as a copy of the 5 and 10 year building out plan required by the FCC.

Some or all of items listed in (h) through (r) may be required to be provided on a propagation study data form to be provided by the County.

(2) Additional Submittal Requirements – ~~Co-location~~Collocation³ of Antennas

In addition to the requirements denoted herein, applications for the ~~co-~~locationcollocation of antennas on existing structures shall be required to submit the following:

- (a) The age of the existing tower in years, including the date of the grant of the original permit or authorization for the existing tower;
- (b) For a wireless support structure that is five years old or older, or for a guyed structure that is three years old or older, a copy of the latest ANSI Report done pursuant to the latest edition of ANSI-EIA/TIA 222F – Annex E for any self-supporting tower. If an ANSI report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application. No Building Permit shall be issued for any wireless support structure where the structure being attached to is in need of remediation, unless and until the County Planning and Inspections Department has approved all remediation work needed has been completed or a schedule for the remediation work.
- (c) A Structural Report signed by a Professional Engineer licensed to do business in the State and bearing that engineer's currently valid stamp, showing the structural adequacy of the wireless support structure to accommodate the proposed modification or antenna array Collocation, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building;
- (d) If attaching to a structure other than a tower or where the proposed attachment is within 30 feet of areas to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF

³ Correction of spelling to ensure consistency within the UDO.

radiation (i.e. Non-Ion Emitting Radiation), will be comply with the most recent FCC regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. Compliance with the FCC's regulations, in such an instance the RF radiation from all facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers. Such report or analysis shall be signed and sealed by a Professional Engineer licensed in the State.

- (e) If the modification or antenna array ~~Collocation~~ ~~collocation~~⁴ is 30 feet or more above ground level, then a signed document such as the FCC's "Checklist to Determine whether a Wireless support structure may be Categorically Excluded" shall be provided to verify that the modification or antenna array ~~co-location~~ ~~collocation~~ will fully comply with the current FCC's RF emissions regulations. If not categorically excluded, a complete RF emissions study is required to enable compliance verification, including providing all calculations so that such may be verified prior to issuance of a Building Permit;

If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with yellow and black striped warning tape or a suitable warning barrier, as well as placing RF radiation signs as needed and appropriate to warn individuals of the potential danger;

- (f) A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services caused by the new installation.

(3) Standards of Evaluation – ~~Co-locations~~ ~~Collocations~~ and Towers Requiring Administrative Approval

- (a) A proposed tower shall not be permitted if it is not substantially necessary for the telecommunications service need identified pursuant to the standards of this Ordinance.
- (b) Tower height shall be measured from the base of the tower to the highest point of the proposed antenna(s), with lightning rod, to be located atop the tower structure.
- (c) Telecommunications towers shall conform with all of the requirements of this Ordinance.
- (d) All towers shall be engineered to allow for ~~co-locations~~ ~~collocations~~. No co-locator shall be refused access for ~~co-location~~ ~~collocation~~ by charging exorbitant lease fees. Public safety provider ~~co-locations~~ ~~collocations~~ shall take priority over other co-locators.
- (e) A telecommunications consultant shall provide Planning Staff assistance on exorbitant rate leases.
- (f) All wireless support structures shall satisfy all applicable public safety, land use, or zoning issues required in this Ordinance, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

⁴ Correction of a grammatical error. There is no need for the word to be capitalized.

- (g) Applicants shall evaluate the reasonable feasibility of collocating new antennas and equipment on an existing structure or structures within the applicant's search ring.
- (h) Prior to issuing a building permit for the collocation of an antenna array on an existing facility, an applicant shall demonstrate that the collocation is located appropriately on the facility with the overall goal being to preserve the carrying capacity of the facility for future collocations and to minimize the visual intrusiveness and impact, including the profile of the facility.
- (i) In determining the necessary height for a facility, or the height of a collocation on a facility, the signal strengths analyzed shall be the threshold or lowest signal strength at which the customer equipment is designed to function, which may be required to be determined by the manufacturer's published specifications for the customer equipment.
- (j) Approval of the Planning Director to verify consistency with the definition of stealth facility is required.
- (k) All telecommunications towers shall be placed in heavily wooded areas on the site to the maximum extent possible so as to lessen the visual intrusiveness of the structure and accessory structures.
- (l) No tower shall be permitted to exceed its designed loading capacity. For all wireless support structures attached to existing structures, the 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 ~~co-location~~ 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.
- (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 that are technically feasible for utilization by the applicant to fill all or a substantial portion of the telecommunications service need identified by the Applicant pursuant to section 5.10.8(A)(1)(s). Documents shall be submitted at the time of application filing that indicates the applicant's ability or inability to co-locate on the identified tower(s) and reasons why.
 - (ii) Delineation of the boundaries of the maximum search ring within which the telecommunication equipment can function as intended. The following information shall be provided for all existing wireless support structures within the search ring:
 - a. Wireless telecommunication support structure height;
 - b. Existing and planned wireless support structure users;
 - c. Whether the existing wireless telecommunication support structure could accommodate the telecommunication equipment to be attached to the proposed wireless support structure without causing structural instability or radio frequency interference; and
 - d. If the proposed telecommunication equipment cannot be accommodated on the existing wireless telecommunication support structure, assess whether the existing wireless support structure could be structurally strengthened or whether the antennas transmitters and related equipment could be protected from electromagnetic interference, and generally describe the means and projected cost of shared use of the existing wireless support structure; and
 - e. Any restrictions or limitations of the FCC or FAA that would preclude the shared use of the wireless support structure;
 - f. Propagation studies of all adjoining planned, proposed, in-service, or existing sites, and;
 - g. Any additional information requested by the County.
 - (iii) A summary explanation of why proposed telecommunication equipment cannot be located on any of the existing wireless support structures in the search ring.
- (e) Documentation from applicable state or federal agencies indicating requirements, which affect the appearance of the proposed wireless support structure, such as lighting and coloring.
- (f) Draft bond which will guarantee the removal of the wireless support structure in the event that it is abandoned or unused for a period of 12 months.

- (g) A listing of, and current tax map identifying, all property owners within 1,000 feet of the parcel and addressed, first class stamped envelopes to the property owners for notifications of the public hearing in accordance with Sections 2.7.5 and 2.7.6 of this Ordinance.
- (h) A report containing any comments received by the applicant in response to the balloon test along with color photographs from various locations around the balloon.
- (i) Evidence that the balloon test requirement has been met, including a notarized statement and listing of the property owners notified of the test, a copy of a current Orange County Tax Map showing the subject property and all properties within the notification ring, and copies of the certified mail returned receipts from the mail-out.
- (j) A notarized statement that the sign posting requirement has been met.
- (k) Photographs of a clearly visible balloon floated at the proposed tower location to the maximum height of the tower, as well as photographs with the proposed tower and associated antennas superimposed upon them showing what the proposed tower will look like. Photographs shall be taken from locations such as: property lines, and/or nearby residential areas, historic sites, roadways, including scenic roads and major view corridors, and other locations as deemed necessary by the Planning Staff to assess the visual impact of the proposed tower.
- (l) The Special Use Permit application shall include a statement that the facility and its equipment will comply with all federal, state and local emission requirements.
- (m) An Applicant may be required to submit an Environmental Assessment Analysis and a Visual addendum. Based on the results of the Analysis, including the Visual addendum, the County may require submission of a more detailed visual analysis. The scope of the required Environmental and Visual Assessment will be reviewed at the pre-application meeting.
- (n) If required, a Visual Impact Assessment, which shall include:
 - (i) A “Zone of Visibility Map” shall be provided in order to determine locations from which the tower may be seen.
 - (ii) Panorama photo simulations of the proposed wireless support structure, superimposed on the existing landscape, to scale, showing “before and after” views including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents
 - (iii) An assessment of the visual impact of the wireless support structure base, guy wires and accessory buildings from abutting and adjacent properties and streets shall be considered to determine the need of screening.
- (o) All applications shall contain a demonstration that the wireless support structure is sited so as to have the least visually intrusive effect reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the telecommunications tower.
- (p) A statement, prepared by a professional engineer licensed in the State of North Carolina, which through rational engineering analysis, certifies the tower’s compliance with applicable standards as set forth in the State of

North Carolina Building Code, and any associated regulations; and describes the tower's capacity, including an example of the number and type of antennas it can accommodate.

(4) Standards of Evaluation

- (a) The telecommunications equipment planned for the proposed wireless support structures cannot be accommodated on an existing wireless support structures due to one or more of the following reasons:
- (i) The planned equipment would exceed the structural capacity of existing and approved wireless support structures, considering existing and planned use of those wireless support structures and the wireless support structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.
 - (ii) The planned equipment would cause radio frequency interference with other existing or planned equipment for these wireless support structures, and the interference cannot be prevented at a reasonable cost.
 - (iii) Existing or approved wireless support structures do not have space on which the equipment can be placed so it can function effectively and reasonably in parity with similar existing or approved equipment.
 - (iv) No tower or other suitable facility exists in an area where the equipment to be placed on the tower will function in its intended manner.
- (b) Location of Wireless Support Structures
- (i) Applicants for facilities shall locate, site and erect said facilities according to the following priorities, in the following order:
 - a. On existing County-owned facilities without increasing the height of the tower or structure.
 - b. On existing Facilities without increasing the height of the tower or structure.
 - c. On County-owned properties or facilities.
 - d. On properties in areas zoned for commercial or industrial use.
 - e. On properties in areas zoned Agricultural Residential (AR).
 - f. On properties in areas zoned for residential use.
 - (ii) If an Applicant proposes to place telecommunications equipment at a location that is not a preferred priority 1 site, then the Applicant must provide a detailed explanation as to why a higher priority site is not proposed. The explanation shall be in the form of a written report demonstrating the Applicant's review of the above locations in order of priority and the reason(s) for the site selection. The explanation shall, at a minimum, include the information required by section 5.10.8(B)(3)(e).
 - (iii) The application shall not be approved unless it demonstrates that the telecommunications equipment may not be sited at a higher priority site because of commercial impracticability or because no higher priority site is available that would serve to provide the telecommunications service need identified by the

Applicant as provided for in section 5.10.8(A)(1)(s).

- (iv) An Applicant may not by-pass sites of higher priority merely because the site proposed is the only site leased or selected. Agreements between providers limiting or prohibiting ~~co-~~location collocation shall not be a valid basis for any claim of commercial impracticability.
- (v) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, an application shall not be approved if it conflicts with the provisions and requirements of this Ordinance.
- (vi) Wireless support structures shall not be located within one-half (½) mile of any existing monopole, lattice or guyed wireless telecommunications support structure.
 - a. An exception may be allowed when the applicant can sufficiently demonstrate that:
 - i. Appropriate space on the existing telecommunication wireless support structure is not available; or
 - ii. The applicant has made good faith effort to negotiate an agreement with the owner of the existing wireless telecommunication support structure and has been unsuccessful, which must be documented in writing; or
 - iii. The telecommunication equipment on the existing wireless telecommunication support structure is not compatible with the proposed telecommunication equipment of the applicant; or
 - iv. Adequate coverage by the applicant cannot be met at the location of the existing wireless telecommunication support structure; or
 - v. The existing wireless telecommunication support structure cannot be reasonably modified to accommodate additional ~~co-~~location collocation by the applicant.
 - b. Exceptions shall only be allowed after a thorough analysis of the search area, provided by the applicant is performed by the County's consultant or Staff, indicating that coverage is not possible on an existing wireless support structure at the four-carrier capacity or other user capacity that can be achieved. There must be an 80% approval vote of the deciding board for this specific finding to pass the exception criteria.
- (c) Setbacks
 - (i) Within or adjacent to residential zoning districts, minimum setbacks from the base of the wireless support structure to the property boundary shall be equal to 110% of the wireless support structure height.
 - (ii) If the wireless support structure is proposed as an accessory use to a residential use, the setback shall be 110% of the wireless support structure height from any residence or dwelling unit on

- the subject property.
- (iii) Adjacent to non-residential uses or non-residential zoning districts, minimum setbacks from the base of the wireless support structure to the property boundary shall be the greater of 20% of the tower height, or the minimum required setback.
 - (iv) All buildings and other structures to be located on the same zoning lot as a telecommunication tower wireless support structure shall conform with the setbacks established for the zoning district or as established through the subdivision process, whichever is greater.
- (d) Access
- (i) At a wireless telecommunications support structure site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access.
 - (ii) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
 - (iii) Road construction shall, at all times, minimize ground disturbance and the cutting of vegetation.
 - (iv) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- (e) Landscaping and Buffers
- (i) A Type C Landscape Buffer shall be provided between the wireless support structures and its accessory structures and adjoining property/properties.
 - (ii) Existing vegetation may be removed only to the extent necessary to accommodate the wireless support structures, equipment buildings, and support structures such as guy wires.
 - (iii) Plantings around the compound perimeter, outside of any fence or wall, shall be composed entirely of fast growing evergreen vegetation.
 - (iv) New plantings and existing vegetation used for screening shall be at least six feet in height or greater at planting.
 - (v) Proposed plantings (name, type, height) shall be shown on the Landscape Plan for the facility.
 - (vi) Landscaping shall provide a screen on a year-round basis.
- (f) The visibility of the balloon to adjacent properties and the surrounding area shall not constitute sole justification of denial of a permit application, but is an indication of what location on the site may be less visually intrusive.
- (g) The applicant shall demonstrate and provide a description in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed facility.
- (h) The site plan shall indicate a location for at least two equipment buildings in addition to that proposed for use by the applicant.
- (i) All utilities at a facility site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

- (j) All wireless support structures shall satisfy all applicable public safety, land use, or zoning issues required in this Ordinance, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.
- (k) Fences and Walls
 - (i) An eight foot fence or wall shall be required around the base of any wireless support structures. This fence or wall shall encompass all accessory equipment within the compound.
 - (ii) Fences shall be required around guy wire tie downs
 - (iii) A fence or wall may be placed around the perimeter of the facility to include guy wire tie downs and associated equipment should the applicant/owner wish to do so.
- (l) The communications tower is structurally designed to support additional users as provided for in Section 5.10.8(A)(3)(d), and the Special Use Permit includes a statement that the owner of the wireless support structure is willing to permit other user(s) to attach communication equipment which do not interfere with the primary purpose of the wireless support structure, provided that such other users agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment.
- (m) To minimize the number of antenna arrays and thus the visual impact, the County may require the use of dual mode antennas to be used, including by two different carriers, unless it can be proven that such will not work technologically and that such would have the effect of prohibiting the provision of service in the County.
- (n) Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings.
- (o) Both the wireless telecommunications support structure and any and all accessory or associated telecommunication equipment and related facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth technology as may be required by the County.
- (p) Antennas
 - (i) All new or replacement antennas, except omni-directional whip antennas, shall be flush-mounted or as close to flush-mounted as is technologically possible on any facility, so long as such does not have the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), unless the applicant can prove that it is technologically impracticable.
 - (ii) If attached to a building, all antennas shall be mounted on the facade of the building and camouflaged so as to match the color and, if possible, texture of the building or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.
- (q) Lighting
 - (i) The wireless support structures will not be artificially lighted unless required by the FAA, FCC or other federal or state agency. Where such agencies allow a choice between painting the tower or installing strobe lighting, painting shall be the

- preferred choice.
- (ii) If lighting is legally required or proposed, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and federal regulations.
 - (iii) For any facility for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is visible from the air, as intended by the FAA.
 - (iv) All outdoor lighting not regulated by the FCC shall comply with the Outdoor Lighting Standards set forth in Section 6.11 of this Ordinance.
- (r) The tower and antenna will not result in a significant adverse impact on the view of or from any historic site, scenic road, or major view corridor.
 - (s) Facilities, including antennas, towers and other supporting structures, such as guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.
 - (t) All abandoned communication wireless support structures shall be removed within 12 months of the cessation of use. A bond or other security guaranteeing the removal of the tower in the event that it is abandoned or unused for a period of 12 months shall be posted. A cost estimate shall be provided by a qualified General Contractor licensed in the State of North Carolina. The amount of the security shall be 110% of the estimate.
 - (u) A determination shall be made that the facility and its equipment will comply with all federal, state and local emission requirements, and the Special Use Permit shall include a statement that the facility and its equipment will comply with all federal, state and local emission requirements.
 - (v) Electro-Magnetic Radiation Levels
 - (i) The Special Use Permit shall include a condition that the electro-magnetic radiation levels maintain compliance with requirements of the FCC, regarding emission of electromagnetic radiation.
 - (ii) Within 30 days of installation of equipment on the tower, and within 30 days of the installation of any additional equipment in the future, the tower owner shall provide documentation of emission levels in relation to FCC standards.
 - (iii) In addition, the tower owner must provide documentation of emission levels within five working days if so requested by Orange County.
 - (iv) Orange County may make such requests at any time, not to exceed two times per year.

- (w) "High Voltage", "No Trespassing" and Other Signs
- (i) If high voltage is necessary for the operation of the telecommunications tower or any accessory structures, "HIGH VOLTAGE - DANGER" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart.
 - (ii) "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall and shall be spaced no more than 40 feet apart.
 - (iii) The letters for the "HIGH VOLTAGE - DANGER" and "NO TRESPASSING" warning signs shall be at least six inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least five feet above the finished grade of the fence.
 - (iv) The warning signs may be attached to freestanding poles if the content of the signs would, or could, be obstructed by landscaping. Signs noting federal registration (if required) shall be attached to the tower structure in compliance with federal regulation.
 - (v) Facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area.
 - (vi) A sign no larger than four square feet containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s) shall be installed. The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet.
 - (vii) On tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting.
 - (viii) The use of any portion of a tower for signs or advertising purposes including company name, banners, streamers, etc. shall be strictly prohibited.
 - (ix) Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.

(5) Bond Security

- (a) The applicant and the owner of record of any proposed facility property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Section and conditions of any Special Use Permit issued pursuant to this Section.
- (b) The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition

comparable to that, which existed prior to the issuance of the original Special Use Permit. Tower Inspection

(6) Liability Insurance

- (a) A holder of a Special Use Permit for a wireless support structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in the following amounts:
 - (i) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate; and
 - (ii) Automobile Coverage: \$1,000,000.00 per occurrence/\$2,000,000 aggregate; and
 - (iii) A \$3,000,000 Umbrella coverage; and
 - (iv) Workers Compensation and Disability: Statutory amounts.
- (b) For a wireless support structure on County property, the Commercial General Liability insurance policy shall specifically name the County as an additional insured. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- (c) The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least 30 days prior written notice in advance of the cancellation of the insurance.
- (d) Renewal or replacement policies or certificates shall be delivered to the County at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- (e) Before construction of a permitted facility is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the Special Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the County shall not be deemed to comply with this Section.

(C) General Building and Inspection Standards for all Telecommunication Support Structures

(1) Tower Inspection

- (a) Telecommunication tower owners shall submit a report to the County Inspections Division certifying structural and electrical integrity upon completion of the initial construction and at intervals as specified in this Section.
- (b) Inspection records shall be kept by the tower owner and made available upon request to the Inspections Division during regular business hours.
- (c) The following inspection schedule shall be followed, except in cases where a tower has no structures other than those associated with telecommunication tower use located within the tower's fall zone.
 - (i) At least once every 36 months, or 36 months from the date of a ~~co-location~~ collocation approval, a structural engineer who is regularly involved in the maintenance, inspection and/or erection of telecommunications towers shall inspect the tower and submit a report to the Inspections Division within a reasonable time thereafter. At a minimum, this inspection shall be conducted in

accordance with the provisions of this Ordinance and in accordance with the tower inspections check list provided in the EIA-222 (as amended from time to time). This is considered a major inspection review.

- (ii) At least once every 12 months, a visual inspection from the ground shall be conducted by a properly trained staff member of a tower provider or tower consultant and a report shall be filed with the Inspections Division within a reasonable time thereafter. This inspection shall include, but shall not be limited to, visual inspection of tower foundations, structures, guys, and connections for evidence of settlement or later movement; soil erosion; condition of paint or galvanizing; rust or corrosion, loose or missing bolts, loose or corroded lightning protection connectors; tower plumbness, significant variation in guy sags (i.e. tensions), and other material areas or matters relating to the structural integrity of the tower. This is considered a minor inspection review.
- (iii) In addition to the regularly scheduled major and minor inspections set forth herein, a minor inspection, at a minimum, will be conducted if the tower or its appurtenances are noted at any time to be visibly damaged. Additionally, a major inspection shall be conducted if the visible damage to the tower is significant or when, after conducting a minor inspection, significant questions remain about the structural integrity of the tower.
- (d) The Inspections Division may conduct periodic inspections of telecommunications towers to ensure electrical integrity. The owner of the telecommunication tower may be required by the County to have more frequent inspections should there be reason to believe that the electrical integrity of the tower is jeopardized. The County reserves the right to require additional inspections if there is evidence that the tower has a safety problem or is exposed to extraordinary conditions.
- (e) Any tower found, through inspection by the owner or by inspection of the Inspections Division, to be structurally unsafe and cannot be brought into compliance within 180 days shall be removed at the owner's expense.
- (f) Current or former EIA standards shall apply to the addition of antennas or other appurtenances to communications towers under the following conditions:
 - (i) Additions to towers constructed prior to the effective date of this Ordinance, regardless of whether the additions are accounted for in the original design, shall comply with the current EIA standards, and the wind loading specified therein. Additions to towers constructed subsequent to the effective date of this Ordinance shall comply with standards set forth elsewhere in this Section.
 - (ii) Existing towers that will not have any additional attached appurtenances shall at a minimum comply with the EIA standards in existence at the time the tower was erected.
 - (iii) Replacement of antennas or other appurtenances shall at a minimum comply with the EIA standard in existence at the time the tower was erected if the replacement does not add to the original design loading.
 - (iv) If a structural analysis shows a tower is not in compliance with

the appropriate EIA standards, the owner shall submit an application to the Inspections Division with a plan to bring the tower into compliance within six months.

- (v) Analysis of Existing Towers
- a. Within 12 months of the effective date of this Ordinance an analysis commissioned by tower owners and prepared by a North Carolina Licensed Professional Engineer (P.E. Analysis) shall be performed on all towers in excess of 100 feet in height and shall be submitted to the Inspections Division.
 - b. The analysis shall determine the tower's compliance or lack thereof with the EIA standard in effect at the time the tower was constructed and when the most recent structural loading change was made.
 - c. For all towers less than six years old, a current existing P.E. analysis of the tower may be submitted in lieu of the new P. E. analysis required above.
 - d. If the tower does not meet the aforementioned EIA standards, the letter or existing P.E. analysis shall include the types of modifications that would be required to bring the tower up to standard.
 - e. All existing towers shall be subject to the annual electrical inspection conducted by the Inspections Division including any associated inspection fees.
 - f. The Inspections Division shall be notified in writing when a required analysis is complete. A copy of the analysis report shall be made available to the County Inspections Division upon request. That report shall also give details of the net result of any changes made to the tower or its appurtenances since the last inspection.

(D) Fees

- (1) A filing fee as set by the Board of County Commissioners shall be paid upon application for a Site Plan/Zoning Compliance Permit Application, a Building Permit application, or Special Use Permit.
- (2) An inspection fee is due the County at the time of all required future inspections as detailed within Section 5.10.8(C)(1)(c) of this Ordinance. Such fees may reflect the County's fully allocated costs, and shall not exceed such costs.
- (3) Public land or right-of-way lease agreements shall be established by separate instrument and recorded prior to the issuance of Building Permits.
- (4) Consultant Fee. Regardless of the type of telecommunication support structure proposed (i.e. administrative approval, special use permit, ~~co-location~~ collocation, etc.) an applicant is required to submit a fee to cover the County's telecommunications consultant to review the application. An escrow account of an amount determined by the Board of County Commissioners, as denoted on the adopted fee schedule, shall be paid by check to Orange County to pay associated consultant review fees during all phases of the application review process. The Board of County Commissioners shall determine the amount of charges or fees assessed to an applicant on account of an outside consultant in advance and incorporate these charges and fees into an application fee that is based on the reasonable costs of the services the County incurs in connection with the application review. The fees and charges paid by the applicant for the services of a consultant shall not exceed what is usual and customary for

wireless facilities and support structures. The foregoing does not prohibit the County from imposing additional reasonable cost-based fees for the actual costs incurred by the County for a consultant's review of an application due to amendments or revisions to the original application. The amount of the consultant charges incorporated into the application fee shall be separately identified and disclosed to the applicant upon request. ~~A partial escrow payment of \$1,000 shall be submitted at the pre-application meeting to cover associated consulting fees incurred prior to the formal submittal of an application. The escrow amount required at the formal application submittal shall be reduced by the \$1,000 partial payment amount.~~⁵ Any unused funds in the account after either the approval of the Certificate of Occupancy (CO), or the expiration of the Special Use Permit approval, whichever is sooner, shall be returned to the designated party.

5.10.9 Removal of Wireless Support Structures and Facilities

- (A) The owner of any facility shall be required to provide a minimum of 30 days written notice to the County Clerk prior to abandoning any facility.
- (B) **County Determination**
- Under the following circumstances, the County may determine that the health, safety, and welfare interests of the County warrant and require facility removal:
- (1) Facilities that have been abandoned (i.e. not used as facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days of abandonment;
 - (2) Permitted facilities fall into such a state of disrepair that it creates a health or safety hazard;
 - (3) Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization and the Special Use Permit may be revoked.
- (C) If the County makes such a determination as noted above, then the County shall notify the holder of the Special Use Permit for the facility within 48 hours that said facility shall be removed.
- (D) The holder of the Special Use Permit, or its successors or assigns, shall dismantle and remove such facility, and all associated structures, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the County. However, if the owner of the property upon which the facility are located wishes to retain any access to the facility, the owner may do so with the approval of the County.
- (E) If a facility is not removed or substantial progress has not been made to remove the facilities within 90 days after the permit holder has received notice, then the County may order officials or representatives of the County to remove the facility at the sole expense of the owner or Special Use Permit holder.
- (F) If the County removes, or causes to be removed a facility, and the facility owner does not claim and remove it from the site to a lawful location within ten days, then the County may take steps to declare the facility abandoned, and sell them and their components.
- (G) Temporary Use Permit/Agreement

⁵ Staff is deleting references to the payment of fees. The breakdown of fees required for the review of a project is best handled on the adopted fee schedule and not within the actual Ordinance. We need to rely on the adopted fee schedule to identify all required fees and not continue to have references to specific dollar amounts within the Ordinance.

- (1) Notwithstanding anything in this Section to the contrary, the County may approve a temporary use permit/agreement for the facility, for no more than 90 days, during which time the holder of the Special Use Permit shall develop a suitable plan for facility removal, conversion, or re-location, subject to the approval of the County, and the holder of the Special Use Permit and the County shall execute an agreement to such plan.
- (2) If such a plan is not developed, approved and executed within the 90 day time period, then the County may take possession of and dispose of the affected facility in the manner provided in this Section and utilize the bond.

SECTION 5.11: STANDARDS FOR WASTE MANAGEMENT FACILITIES

5.11.1 Solid Waste Collection Facilities Owned and Operated by A Public Agency for the Purpose of Disposal of Household Waste by Orange County Residents

(A) General Standards

- (1) The site shall consist of a parcel, or easement across a parcel, (whether owned or leased by the public agency) which has been recorded by the Orange County Register of Deeds.
- (2) The parcel or easement across the parcel, (whether owned or leased by the public agency) on which the facility is located shall contain a minimum area of 40,000 square feet.
- (3) The parcel or easement shall have frontage on a State maintained road.
- (4) A Type B landscape buffer, 30' in width, shall be provided along the perimeter of the parcel or easement.
- (5) Fencing at least six feet in height shall be provided between the landscape buffer and the improved portion of the parcel or easement.
- (6) An entrance sign shall identify site as a sanitation collection site, and shall identify the responsible public agency. The sign shall contain a maximum of nine square feet and shall not exceed eight feet in height. Instructional signs may be erected as needed within the facility.
- (7) The entrance to the site shall contain a travelway a minimum of 30' in width.

5.11.2 Landfills

(A) Standards for Class A and Class B Special Use Permits

(1) Submittal Requirements

In addition to the basic information required by Section 2.7 the following information shall be submitted as part of the application:

- (a) Typical cross sections showing extent of overburden, extent of fill and water table elevation, based on mean sea level datum;
- (b) Proposed handling and storage areas for overburden, by products and fill materials;
- (c) Proposed fencing, screening and gates, parking, service and other areas;
- (d) Any areas proposed for ponding; and
- (e) Access roads to the site, as well as on site roads, with indication of surface treatment to limit dust, and sight distances on all roads used for access to the site.
- (f) An Operations Plan which shall include:

Subdivision, Minor

A division of a tract of land that does not:

- a) Create more than five lots, including the residual acreage, from any one tract of land in any 24 month period;
- b) Dedicate or improve any new public street other than widening an existing public street;
- c) Extend public water and/or sanitary sewerage systems other than laterals to serve individual lots;
- d) Necessitate the installation of drainage improvements which would require easements through one or more lots to serve other lots; and
- e) At the option of the applicant, involve vesting of the subdivision for a period greater than one year.

Substantial damage

Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "substantial improvement." Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

Substantial improvement

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period whereby the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either any correction of existing violations of State or Orange County health, sanitary, or safety code specifications which have been identified by the Orange County code enforcement official and which are the minimum necessary to assure safe living conditions, or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Support System

A combination of footers, piers, caps, and shims that will, when properly installed, support the mobile home. Masonry walls may be installed as a cosmetic feature.

Telecommunication Facilities, Accessory Use

A use incidental to, subordinate to, and subservient to the principal use of the property. As defined in this section an accessory use is a secondary use.

Telecommunication Facilities, Antenna

A system of electrical conductor communications equipment that transmits and/or receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Telecommunication Facilities, Applicant

Any wireless service provider or wireless support structure owner submitting an application for a wireless facility.

Telecommunication Facilities, Application

A formal request, containing all necessary and required documentation, submitted to Orange County to construct or modify a wireless support structure or a wireless facility.

Telecommunication Facilities, Base Station

A station at a specific site authorized to communication with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.⁶

⁶ The term base station is new to State Law and we are adding the definition to the UDO.

Telecommunication Facilities, Building Code

The most recently adopted or amended edition of the North Carolina State Building Code.

Telecommunication Facilities, Building permit

An official Orange County administrative authorization to begin construction consistent with the provisions of N.C.G.S. 153A-357.

Telecommunication Facilities, Collocation

The installation of new wireless facilities on previously approved structures, including wireless support structures, buildings, utility poles, and water tanks. The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.⁷

Telecommunication Facilities, Commercial Impracticability or Commercially Impracticable

The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a particular financial return on investment or profit, standing alone, and for a single site, shall not deem a situation to be commercially impracticable and shall not render an act or the terms of an agreement commercially impractical.

Telecommunication Facilities, Equipment Compound

An area surrounding or near the base of a wireless support structure within which a wireless facility is located.⁸

Telecommunication Facilities, EIA-222

Electronics Industries Association Standard 222 (Structural Standards for Steel Antenna Wireless support structures and Antenna Support Structures).

Telecommunication Facilities, Equipment enclosure

An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Telecommunication Facilities, Eligible Facilities Request

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.⁹

Telecommunication Facilities, Existing Structure/Building

For purposes of this Section, any building or structure that currently exist on a parcel of land. Such structures may include, but shall not be limited to, telecommunications wireless support structures, overhead transmission line support structures, water tanks, silos, churches, schools, and utility poles.

Telecommunication Facilities, Extraordinary Conditions

Conditions subsequent to a hurricane, flood, tornado, or other natural or other disaster.

Telecommunication Facilities, FAA

The Federal Aviation Administration or its duly designated and authorized successor agency.

⁷ Our existing definition has, which was taken from State law, has been modified to comply with recent changes adopted as part of the 2013-185 Session Law.

⁸ Adding a new definition detailed within the Session Law.

⁹ Adding a new definition detailed within the Session Law. Appropriate reference has also been included within the telecommunication regulations section of the UDO.

Telecommunication Facilities, Personal Wireless Services (PWS) or Personal Telecommunications Service (PTS)

As defined and used in the 1996 Telecommunications Act.

Telecommunication Facilities, Repairs and maintenance

The replacement or repair of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted, but does not constitute a modification to a wireless facility or support structure.

Telecommunication Facilities, Roofline

The overall ridgeline of the structure, not including cupolas, elevator towers, clock towers or other similar features.

Telecommunication Facilities, Search ring

The area within which a wireless support structure must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

Telecommunication Facilities, Self-Support/Lattice Wireless support structure

A tapered structure broad at the base and narrower at the top consisting of cross-members and diagonal bracing and without guyed support.

Telecommunication Facilities, Stealth or Stealth Technology

A design or treatment that minimizes 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 support structures, which shall mean building the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances. Stealth technology includes such technology as Distributed Antenna System (DAS) or its functional equivalent or camouflage where the structure is disguised to make it less visually obtrusive and not recognized to the average person as a wireless support structure.

Telecommunication Facilities, Substantial Modification

The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure.

Telecommunication Facilities, Telecommunication Equipment

Equipment, which is located either upon a telecommunication tower or a structure and includes some form of antenna for the purpose of transmitting and receiving wireless services.

Telecommunication Facilities, Wireless facility Stealth

A wireless support structure designed using stealth technology such that its primary purpose is, or visually appears to be, something other than the support of telecommunications equipment, the apparent purpose of the wireless support structure is customarily considered as accessory to a use that is allowed in the zoning district, and the structure and its primary use comply with this Ordinance.

Telecommunication Facilities, Utility pole

A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Telecommunication Facilities, Unforeseen Events

Condemnations of existing telecommunications wireless support structures for road projects, casualty of existing telecommunications wireless support structures, blocking of signals from new construction necessitating a relocation of a telecommunication wireless support structure, or the need to replace an

existing telecommunication wireless support structure for capacity issues, or for other reasons deemed necessary by the County Planning Director or his/her designee.

Telecommunication Facilities, Whip Antenna

A cylindrical antenna that transmits and/or receives signals in 360 degrees.

Telecommunication Facilities, Wireless facility

The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area. This may also be referred to as a Personal Wireless Facility.

Telecommunication Facilities, Wireless support structure

A new or existing structure, such as a monopole, lattice, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

Telecommunication Facilities, Wireless Telecommunications Facility (WTF), Includes both Telecommunications Site and Personal Wireless Facility

A structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit wireless support structures of all types, kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the facility. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services, and any commercial wireless telecommunication service not licensed by the FCC.

Temporary Residential Mobile Home

A mobile home, intended for residential use for a limited period of time, for purposes of providing for custodial care under a Class B Special Use Permit or providing temporary residential space during the installation of a replacement mobile home or construction of a stick-built or modular residential unit on the same lot, and for 30 days after the issuance of Certificate of Occupancy for the permanent unit. The temporary mobile home is not attached to a permanent or semi-permanent foundation.

Temporary Use Building

A building, not intended for residential use, consisting of one or more modules constructed off the ultimate site of use. The building is also not attached to a permanent or semi-permanent foundation.

Ten-Year Transition Land

Land located in areas that are in the process of changing from rural to urban densities and/or intensities, that are suitable for higher densities and/or intensities and could be provided with public utilities and services within the first 10-year phase of the Comprehensive Plan update or where such utilities and services are already present or planned. Non-residential uses implemented in accordance with small area plans and/or overlay districts may be appropriate.

Tourist Home

A building or group of attached or detached buildings containing, in combination, three to nine lodging units for occupancy for daily or weekly periods, with or without board, and primarily for occupancy by transients, as distinguished from rooming houses, in which occupancy is primarily by residents rather than transients.

Traffic Generation: Low

Uses which generate an average of less than 200 vehicle trips per day.

**ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: October 2, 2013

**Action Agenda
Item No. 3**

SUBJECT: Review of Proposed UDO Text Amendments Related to Board of Adjustment Operation

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Comprehensive Plan and Unified Development Ordinance Outline Form (UDO & Zoning 2013-05) and Session Law 2013-126 2. Draft UDO Amendment Package | <p>Michael D. Harvey, Planner III (919) 245-2597
Craig Benedict, Director (919) 245-2575</p> |
|--|--|

PURPOSE: To review and comment upon a Planning Director initiated UDO text amendment package concerning procedural and notification requirements for the Board of Adjustment. The package also seeks to modify procedural requirements associated with the processing of Class A Special Use Permits, handled by the BOCC.

BACKGROUND: Session Law 2013-126, adopted June 19, 2013, has modified procedural and notification requirements for the Board of Adjustment. These changes include modification of the required findings associated with a variance request and changing required voting standards for special use permit and appeal applications.

Staff is proposing to revise existing language within the UDO to ensure consistency with State law. For additional background, and a copy of the Session Law, please refer to Attachment 1. The proposed amendment package is contained in Attachment 2.

Various County staff are also currently reviewing the proposed amendments so there may be changes made in response to any staff comments received.

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 accordingly.

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

UDO / Zoning-2013-05

UDO Text Amendment(s) incorporating recent changes in State law concerning procedural and notification requirements for the Board of Adjustment

A. AMENDMENT TYPE

Map Amendments

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

Text Amendments

- Comprehensive Plan Text:

Section(s):

- UDO Text:

- UDO General Text Changes
- UDO Development Standards
- UDO Development Approval Processes

- Section(s):
1. Section 2.5 4 *Site Plan Review – Procedures and Timeframes*
 2. Section 2.10 *Variances*
 3. Section 2.11 *Interpretations*
 4. Section 2.12 *Board of Adjustment*
 5. Section 2.25 *Appeals*

of the UDO to incorporate recent changes to State law with respect to items reviewed and by the Orange County Board of Adjustment

- 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 incorporate recent changes in State Law, specifically Session Law 2013-126, related to the processing and review of variance, interpretation/appeal, and special use permit applications by the Board of Adjustment (BOA).

The Session Law modifies and updates procedural and notification requirements for the various applications reviewed by the BOA, including:

1. Allowing for a simple majority vote on appeal and special use permit applications. The General Statutes previously required a four-fifths vote of BOA members to grant on all applications before them.

It should be noted variance requests are still required to be approved by a four-fifths vote.

2. Adds new language spelling out the local government's responsibility for informing a property owner of public hearings dates/times.
3. Adds new language establishing the manner in which planning decisions can be advertised. We now have an option of posting a sign on a property where a zoning decision/determination has been made.

This is in furtherance of allowing for a broader 'notification' of planning decisions to the general public.

4. Clarifies deadlines for filing appeals of BOA decisions with Superior Court.
5. Modifies language establishing the criteria for the issuance/denial of a variance.

A copy of the Session Law can be found at the end of this form.

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 our process is consistent with recent changes in State Law.

It should be noted staff is not proposing modifications of existing notification standards. State law, for example, requires we notify adjacent property owners of a hearing by the BOA on a variance, appeal, or special use permit 10 days prior to said meeting via first class mail.

The County currently sends this notice via certified mail 15 days prior to the hearing. We **will not** be changing this requirement as part of this amendment process.

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

4. New Statutes and Rules

Session Law 2013-126 *An Act To Clarify And Modernize Statutes Regarding Zoning Board of Adjustment* (included at the end of this form)

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

September 5, 2013

- b. Quarterly Public Hearing

November 25, 2013

- c. BOCC Updates/Checkpoints

November 5, 2013 – Approve legal advertisement for the November 25, 2013 Quarterly Public Hearing.
 October 2, 2013 – Planning Board Ordinance Review Committee (ORC) (BOCC members can read agenda materials)
 November 25, 2013 – Quarterly Public Hearing
 January 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

- a. Planning Board Review:

October 2, 2013 – Ordinance Review Committee (ORC)
 December 4, 2013 – Recommendation

- b. Advisory Boards:

- c. Local Government Review:

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:

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.

Costs of mailings and/or legal notices shall continue to be offset by application fees for various projects acted upon by the BOA.

D. AMENDMENT IMPLICATIONS

Language within the UDO will be consistent with recent modifications to State law.

E. SPECIFIC AMENDMENT LANGUAGE

See Attachment 2 for draft language, which is currently being reviewed by various County staff members.

Primary Staff Contact:
 Michael D. Harvey
 Planning
 (919) 245-2597
 mharvey@orangecountync.gov

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-126
HOUSE BILL 276**

**AN ACT TO CLARIFY AND MODERNIZE STATUTES REGARDING ZONING BOARDS
OF ADJUSTMENT.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-388 reads as rewritten:

"§ 160A-388. Board of adjustment.

(a) Composition and Duties. – The city council zoning or unified development ordinance may provide for the appointment and compensation of a board of adjustment consisting of five or more members, each to be appointed for three years. In appointing the original members of such board, members or in the filling of vacancies caused by the expiration of the terms of existing members, the city council may appoint certain members for less than three years to the end so that thereafter the terms of all members shall not expire at the same time. The council may, in its discretion, may appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and member serving on behalf of any regular member, shall have and may exercise member has all the powers and duties of a regular member. A city The ordinance may designate a planning board or governing board to perform any or all of the duties of a board of adjustment in addition to its other duties. duties and may create and designate specialized boards to hear technical appeals.

(a1) Provisions of Ordinance. – The zoning or unified development ordinance may provide that the board of adjustment hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(a2) Notice of Hearing. – Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(b) A zoning ordinance or those provisions of a unified development ordinance adopted pursuant to the authority granted in this Part shall provide that the board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of that ordinance. An appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the city. Appeals shall be taken within times prescribed by the board of adjustment by general rule,



~~by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the ordinance. In that case proceedings shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the premises. To this end the board shall have all the powers of the officer from whom the appeal is taken.~~

(b1) Appeals. – The board of adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

- (1) Any person who has standing under G.S. 160A-393(d) or the city may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.
- (2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- (5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall

meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

- (7) Subject to the provisions of subdivision (6) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.
- (8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.
- (9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
- (10) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

(c) Special and Conditional Use Permits. – The zoning ordinance may provide that the board of adjustment may permit special exceptions to the zoning regulations in specified classes of cases or situations as provided in subsection (d) of this section, not including variances in permitted uses, and that the board may use hear and decide special and conditional use permits, all to be permits in accordance with the principles, conditions, safeguards, standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits. The ordinance may also authorize the board to interpret zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in the administration of the ordinance. The board shall hear and decide all matters referred to it or upon which it is required to pass under any zoning ordinance.

(d) Variances. – When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance so that provisions of the ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit spirit, purpose, and intent of the ordinance shall be observed, ordinance, such that public safety and welfare secured, safety is secured, and substantial justice done. is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the board. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(e) Voting. –

(1) ~~The concurring vote of four-fifths of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of an ordinance adopted pursuant to this Part, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of the ordinance. grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" members of the board for calculation of the requisite supermajority majority if there are no qualified alternates available to take the place of such members.~~

(e1) A member of the board or any other body exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(e2) Quasi-Judicial Decisions and Judicial Review. –

(1) ~~The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.~~

(2) ~~Every quasi-judicial decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari. Any certiorari pursuant to G.S. 160A-393. A petition for review by the superior court shall be filed with the clerk of superior court within by the later of 30 days after the decision of the board is filed in such office as the ordinance specifies, is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.~~

(f) Oaths. – ~~The chairman chair of the board of adjustment or any member temporarily acting as chairman, chair and the clerk to the board are is authorized in his official capacity to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.~~

(g) Subpoenas. – ~~The board of adjustment adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d)~~

may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its order subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the board of adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

SECTION 2.(a) G.S. 160A-388(e1) is recodified as G.S. 160A-388(e)(2).

SECTION 2.(b) G.S. 160A-388(e)(2), as recodified by Section 2(a) of this act, reads as rewritten:

"(2) A member of ~~the any board or any other body~~ exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible ~~conflicts~~ violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection."

SECTION 3.(a) G.S. 153A-345 is repealed except that any local modification to that section in effect on September 30, 2013, shall be treated as a local modification to G.S. 160A-388 from October 1, 2013, through June 30, 2015.

SECTION 3.(b) Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-345.1. Board of adjustment.

(a) The provisions of G.S. 160A-388 are applicable to counties.

(b) For the purposes of this section, as used in G.S. 160A-388, the term "city council" is deemed to refer to the board of county commissioners, and the terms "city" or "municipality" are deemed to refer to the county.

(c) If a board of county commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall, if practicable, have at least one resident as a member of the board of adjustment; otherwise, the provisions of G.S. 153A-25 regarding qualifications for appointive office shall apply to board of adjustment appointments."

SECTION 4. G.S. 160A-381(c) reads as rewritten:

"(c) The regulations may also provide that the board of adjustment, the planning board, or the city council may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. When deciding special use permits or conditional use permits, the city council or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the city council or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the city council or planning board shall be subject to review of the superior court in the nature of certiorari in accordance with G.S. 160A-388.

Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made of recreational space and facilities."

SECTION 5. G.S. 153A-340(c1) reads as rewritten:

"(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 153A-345."

SECTION 6. G.S. 153A-44 reads as rewritten:

"§ 153A-44. Members excused from voting.

The board may excuse a member from voting, but only upon questions involving the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 153A-340(g), or ~~153A-345(e1)-160A-388(e)(2)~~. For purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official conduct."

SECTION 7. G.S. 153A-336(a) reads as rewritten:

"(a) When a subdivision ordinance adopted under this Part provides that the decision whether to approve or deny a preliminary or final subdivision plat is to be made by a board of commissioners or a planning board, other than a planning board comprised solely of members of a county planning staff, and the ordinance authorizes the board of commissioners or planning board to make a quasi-judicial decision in deciding whether to approve the subdivision plat, then that quasi-judicial decision of the board of commissioners or planning board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 153A-340(f), ~~153A-345(e2)-160A-388(e2)(2)~~, and 153A-349 shall apply to those appeals."

SECTION 8. G.S. 153A-340(c1) reads as rewritten:

"(c1) The regulations may also provide that the board of adjustment, the planning board, or the board of commissioners may issue special use permits or conditional use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits. Where appropriate, the conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided. When deciding special use permits or conditional use permits, the board of county commissioners or planning board shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for the board of county commissioners or planning board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite majority. Every such decision of the board of county commissioners or planning board shall be subject to review of the superior court in the nature of certiorari consistent with ~~G.S. 153A-345~~. G.S. 160A-388."

SECTION 9. G.S. 153A-349(c) is repealed.

SECTION 10. G.S. 153A-349.8(c) reads as rewritten:

"(c) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement; provided, the notice of termination or modification may be appealed to the board of adjustment in the manner provided by ~~G.S. 153A-345(b)~~. G.S. 160A-388(b1)."

SECTION 11. G.S. 160A-75 reads as rewritten:

"§ 160A-75. Voting.

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting under G.S. 14-234, 160A-381(d), or ~~160A-388(e1)-160A-388(e)(2)~~. In all other cases, a failure to vote by a member who is physically present in the council chamber,

or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue, including the mayor's vote in case of an equal division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats and not including the mayor unless the mayor has the right to vote on all questions before the council. For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

SECTION 12. G.S. 160A-377(a) reads as rewritten:

"(a) When a subdivision ordinance adopted under this Part provides that the decision whether to approve or deny a preliminary or final subdivision plat is to be made by a city council or a planning board, other than a planning board comprised solely of members of a city planning staff, and the ordinance authorizes the council or planning board to make a quasi-judicial decision in deciding whether to approve the subdivision plat, then that quasi-judicial decision of the council or planning board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160A-381(c), ~~160A-388(e2)~~, ~~160A-388(e2)(2)~~, and 160A-393 shall apply to those appeals."

SECTION 13. G.S. 160A-393(c)(3) reads as rewritten:

"(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of impermissible conflict as described in ~~G.S. 160A-388(e1)~~, ~~G.S. 160A-388(e)(2)~~, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles."

SECTION 14. G.S. 160A-393(j)(2) reads as rewritten:

"(2) Whether, as a result of impermissible conflict as described in ~~G.S. 160A-388(e1)~~, ~~G.S. 160A-388(e)(2)~~, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles."

SECTION 15. This act becomes effective October 1, 2013, and applies to actions taken on or after that date by any board of adjustment.

In the General Assembly read three times and ratified this the 10th day of June, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:20 p.m. this 19th day of June, 2013

(G) Effect of Approval

- (1) Approval of a CZD is binding on the property and the development and use of the subject property shall be governed by the Ordinance requirements applicable to the specific CZD district and all approved conditions.
- (2) The applicant shall comply with all requirements established in the CZD Ordinance. Only those uses and structures included in the CZD Ordinance and approved site plan shall be allowed on the subject property.

(H) Zoning Atlas Designation

Following approval of the CZD district by the Board of County Commissioners, the subject property shall be identified on the Zoning Atlas by the appropriate district designation.

(I) Alterations to an Approved CZD

- (1) Except as provided in Section 6.7.2 for MPD-CZ projects, 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 this Article.
- (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.

2.9.3 Public Hearing and Notification Requirements – CUD and CZD

The requirement for a public hearing shall follow the procedures for a Zoning Atlas Amendment in Section 2.8.6. Notice of the public hearing shall follow the procedures in Section 2.8.7.

SECTION 2.10: VARIANCES**2.10.1 Purpose**

The procedures of this section authorize the Board of Adjustment to modify or vary regulations of this Ordinance when strict compliance with the regulation or standard would result in ~~practical difficulties or~~ unnecessary hardships upon the subject property.¹

2.10.2 Application Requirements

- (A) Applications for a Variance shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance. Ten copies of the application and supporting documentation shall be submitted.
- (B) Applications shall include:
 - (1) The section reference, and copy of the existing regulatory language, that is the subject of the application,

¹ Language is recommended for deletion in order to be consistent with recent modifications to State law.

- (2) A description of the specific modification sought by the applicant. For example, if the request is for a modification of a corner lot setback requirement, the applicant shall provide the exact reduction of the established corner lot setback requested as part of the application,
- (3) A plot plan, site plan, or other similar document(s) denoting the physical impact of the proposed request on the parcel,
- (4) A narrative outlining the answers to the five required findings detailed within Section 2.10.3 of the Ordinance justifying the issuance of the variance, and
- (5) Copies of any additional information deemed essential by the applicant justifying the approval of the request.

2.10.3 Authorized Variances

A variance may be approved by the Board of Adjustment in cases ~~involving where practical difficulties or unnecessary hardships would result from carrying out the strict letter of the Ordinance~~, when substantial evidence in the official record of the application supports all of the following findings:

- ~~(A)~~ ~~The alleged hardships or practical difficulties are unique and singular to the property of the applicant and are not suffered in common with other property similarly located.~~ Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- ~~(B)~~ ~~The alleged hardships and practical difficulties that would result from failure to grant the variance extend to the inability to use the land in question for any reasonable use in conformity with the provisions of this Ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.²~~
- ~~(C)~~(B) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or general public, may not be the basis for granting a variance. The variance, if approved, will not substantially interfere with or injure the rights of others whose property would be affected by approval of the variance.
- ~~(D)~~(C) The variance is in harmony with and serves the general intent and purpose of this Ordinance and the adopted Comprehensive Plan.~~The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.~~
- ~~(E)~~(D) Approving the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this Ordinance and the individual hardships that will be suffered by a failure of the Board of Adjustment to grant a variance.~~The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.³~~

² Recent revisions to State Law include language indicating it shall: ‘not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property’. As a result we can no longer have such language in the UDO to the contrary.

³ Portions of existing subsections (D) and (E) have been combined to reflect wording changes in State law with respect to the required findings for the granting of a variance. Staff has modified this entire section to ensure required findings are consistent with new language in State law.

2.10.4 Additional Criteria for Authorized Variances – Special Flood Hazard Area Overlay Zoning District

In addition to the criteria contained within Section 2.10.3, any application for a variance from the Special Flood Hazard Area Overlay Zoning District shall abide by the following additional criteria:

- (A) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (B) In considering variances from the requirements of the Special Flood Hazard Area Overlay Zoning District, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:⁴
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to Orange County;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the Orange County Comprehensive Plan and floodplain management program for the area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges; and
 - (12) The request for a variance is not after-the-fact or for a situation of one's own making.
- (C) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (D) Upon consideration of the factors listed above and the purposes of this Ordinance, the Board of Adjustment may attach such reasonable conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.
- (E) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
- (F) Conditions for Variances:
 - (1) Variances may not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

⁴ Standards governing the issuance of a variance within a floodplain are consistent with FEMA requirements. Applicants are still required to demonstrate compliance with these provisions when requesting a variance.

- (3) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship;
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances; and,
 - (d) That the circumstances on the subject property are unique to the subject property and not to properties in general.
- (G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
- (H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

2.10.5 Additional Criteria for Authorized Variances –Watershed Protection Overlay District

- (A) Minor variances for dimensional requirements of the Watershed Protection Overlay District may be approved by the Board of Adjustment in accordance with Section 2.12 of this Ordinance.
- (B) The Board of Adjustment may approve variance applications to allow the use of off-site septic easements for lots created before January 1, 1994, and for non-conforming lots of record.
- (C) A description of each project receiving a variance and the reason for granting the variance shall be submitted for each calendar year to the Division of Water Quality on or before January 1st of the following year.
- (D) All other local governments having jurisdiction within the watershed area and the entity using the water supply for consumption shall be notified of the variance application at least 15 days prior to action on the application. The Planning Department shall notify other local governments via first class mail.
- (E) **Modifications of the Impervious Surface Ratio**
Modifications of the Impervious Surface Ratios may be requested through one of the following provisions:
 - (1) Through variance procedures of the Board of Adjustment, as described in this subsection (2.10.5).
 - (2) Through approval and recordation of a conservation agreement, as provided in Article 4 of Chapter 121 of the N.C. General Statutes, between Orange County and a land owner that prohibits development of land in a protected watershed in perpetuity.
 - (a) In such cases, a modification of the required impervious surface ratios may be approved administratively but only to the extent that additional land in the same watershed is conserved or protected from development. In such instances, the land that will be subject to a conservation agreement must be adjacent to the land proposed for development and for which a modification of the impervious surface ratios is sought.

- ~~(B) The Board of Adjustment is not authorized to grant a variance that would permit a use in a district where that use is neither a Permitted Use nor a Special Use.~~

~~**2.10.8 Review Procedures**~~

- ~~(A) Applications for a Variance shall be reviewed and acted upon by the Board of Adjustment in accordance with the procedures contained in Section 2.12 of this Ordinance.~~
- ~~(B) The Planning Director shall complete an assessment of the application and provide a recommendation on the disposition of the application.~~
- ~~(C) The assessment shall be introduced at the hearing and become part of the record.~~

~~**2.10.9 Findings of Fact**~~

- ~~(A) Required findings of fact, as listed in Section 2.10.3, shall be made in the indicated order by the Board of Adjustment.~~
- ~~(B) The Board of Adjustment is not empowered to grant a variance without an affirmative finding of fact supported by substantial evidence in the record of proceedings before the Board.~~

~~**2.10.10 Conditions of Approval**~~

~~The Board of Adjustment may impose reasonable conditions upon the approval of any variance to insure that the public health, safety, and general welfare are protected and substantial justice done; appropriate conditions provided that such conditions are reasonably related to the variance.⁵~~

~~**2.10.11 Notice Requirements**~~

~~Notice of matters before the Board of Adjustment shall follow the procedures in Section 2.12.6.~~

SECTION 2.11: INTERPRETATIONS

2.11.1 Generally

An appeal from an order, requirement, decision or determination of the Planning Director shall be decided by the Board of Adjustment based upon its findings of fact and to achieve the intent of this Ordinance. In exercising this power, the Board of Adjustment shall act in a prudent manner so that the purposes of this Ordinance shall be served. The effect of the decision shall not be to vary the terms of this Ordinance nor add to the list of Permitted Uses in the districts.

2.11.2 Application Requirements

- (A) Applications for an appeal of an interpretation of a decision, file determination, directive, Notice of Violation, or other similar determination shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance. Ten copies of the application and supporting documentation shall be submitted.
- (B) Applications must be received by the Planning Director no later than 30 days after the decision, file determination, directive, Notice of Violation, or other similar determination was made.

2.11.3 Stay on Further Proceedings

- (A) An appeal to the Board of Adjustment from a decision or determination of the Planning Director stays all proceedings in furtherance of the decision or determination appealed from, except as provided herein.

⁵ Staff is recommending existing language referencing ‘public health, safety, general welfare’ as well as ‘substantial justice’ be deleted as this wording does not appear in the Statute.

- (B) An appeal to the Board of Adjustment of a determination or decision of the Planning Director shall not stay further proceedings in furtherance of the decision or determination appealed from, if the Planning Director ~~determines-certifies to the Board of Adjustment in an affidavit~~ either:
- (1) ~~That, in the opinion of the Planning Director, a stay would cause imminent peril to life and/or property. A stay would cause imminent peril to life or property, or,;~~
 - (2) ~~That the~~The situation appealed from is transitory in nature and, therefore an appeal would seriously interfere with enforcement of the Ordinance.
- ~~(3)(C)~~ In either instance, the Planning Director shall place in the determination facts to support the conclusion if (B)(1) and/or (B)(2) are invoked.
- ~~(C)(D)~~ If (B1) and/or (B)(2) are invoked, and approved by the Board of Adjustment, enforcement proceedings shall not be stayed except through the issuance of a restraining order. If enforcement proceedings are not stayed, the appellant may file a request for an expedited hearing of the appeal.⁶

2.11.4 Review Procedures

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

2.11.5 Findings of Fact

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

2.11.6 Notice Requirements

Notice requirements shall follow Section 2.12.6(A). Other subsections of Section 2.2.6 are not applicable to applications for an appeal of an interpretation.

SECTION 2.12: BOARD OF ADJUSTMENT

2.12.1 General Provisions

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

⁶ Staff is adding new language consistent with changes in State law.

2.12.2 Quasi-Judicial Proceedings

- (A) The Board of Adjustment acts in a quasi-judicial capacity. However, it is not intended that its proceedings be conducted as formally as those before courts.
- (B) The rules of procedure and evidence set forth in this Ordinance shall be followed to protect the interests of all parties and the public.
- (C) The presiding officer shall administer oaths to all witnesses and shall make rulings necessary to preserve fairness, order, or proper decorum in any matter before the Board of Adjustment. Any person who, while under oath during a proceeding before the Board, willfully swears falsely is guilty of a Class I misdemeanor.
- (D) Any member of the Board of Adjustment or any interested party may object to, and the presiding officer may exclude, any evidence, testimony, or statement that is deemed incompetent, irrelevant, immaterial, or unduly repetitious and therefore fails to reasonably address the issues before the Board of Adjustment.

2.12.3 Evidence and Testimony

- (A) **Interested Party**
 - (1) Any interested party may present evidence or testimony, cross-examine witnesses, inspect documents, and offer evidence or testimony in explanation or rebuttal.
 - (2) Any member of the Board of Adjustment may question any interested party.
 - (3) Persons other than interested parties may make competent, relevant, and material comments.
- (B) **Subpoenas**
 - (1) The Board of Adjustment may subpoena witnesses and compel the production of evidence.
 - (2) To request issuance of a subpoena, persons with standing as detailed under NCGS 160A-939 (d), shall make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas in those cases where testimony or evidence is deemed to be relevant, reasonable in nature and scope, and not oppressive.
 - (3) The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board.
 - ~~(2)~~(4) If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment, or the party seeking the subpoena, may apply to the General Court of Justice for an order requiring that its order be obeyed, and the Court will have jurisdiction to issue those orders after notice to all proper parties.
 - ~~(3)~~(5) No testimony of any witness before the Board of Adjustment, pursuant to a subpoena issued in exercise of the power conferred by this subsection, may be used against the witness in any civil or criminal action, other than a prosecution for false swearing committed on the examination.
 - ~~(4)~~(6) Anyone who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

2.12.4 Quorum and Vote Required

- (A) A quorum of the Board is necessary to conduct any business and shall consist of four members.
- (B) The affirmative vote of four of the members of the Board shall be necessary in order to effect any variation in this Ordinance.

- ~~(1) Reverse any order, requirement, decision or determination of any administrative official charged with enforcement of this Ordinance, or~~
- ~~(2) Decide in favor of the applicant any matter upon which it is required to pass by this Ordinance including, but not limited to, the issuance of Class B Special Use permits, or~~
- ~~(3) Effect any variation in this Ordinance.~~
- (C) A majority of the members shall be required to decide on the issuance of a Class B Special Use Permit or an appeal application.⁷

2.12.5 Notification of Board Action

- (A) Within five working days after Board action, the Planning Director shall have available in the Planning Department's office a notice of decision of the Board's action.
- (B) The Planning Director shall notify the parties to an application or appeal of the Board's disposition. This includes, but is not limited to: the applicant, the property owner if different from the applicant, or any individual who has submitted a written request for a copy prior to the date the decision becomes effective.⁸ This notice shall be made by registered or certified mail within five working days of the Board's actions.⁹
- (C) The Planning Director shall keep a copy of the Board's action on file.

2.12.6 Notice Requirements for Matters Before the Board

- ~~(A) The Board shall give notice of matters coming before it by causing notice to be placed in a newspaper of general circulation in Orange County. The notice shall appear once a week for two consecutive weeks, the first insertion to be not less than ten days nor more than 25 days prior to the meeting date. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.~~
- ~~(B) In the case of application for a Class B Special Use permit or variance the Planning Director shall give written notice by certified mail to adjacent property owners. This notice shall be given not less than 15 days prior to the meeting date. Adjacent property owners are those whose property lies within 500 feet of the affected property and whom are currently listed as property owners in the Orange County tax records.~~
- ~~(C) The Planning Director shall post on the affected property a notice of the Board meeting at least ten days prior to the meeting date.~~
- ~~(D) In the case of an appeal of a Stop Work Order issued by the Planning Director, the Planning Director shall give written notice by certified mail to the property owner, and/or person(s) engaged in the alleged violation. Notification of adjacent property owners, posting of property, and publication of a hearing notice is not required.~~

SECTION 2.13: EXEMPT SUBDIVISIONS

2.13.1 Generally

- ~~(A) Persons proposing divisions of land that do not constitute a subdivision must request a determination of an exempt subdivision status with the Planning Director. Activities that do not constitute a subdivision are found in Section 7.2.1.~~

⁷ Simple majority vote is now all that is necessary to approve a SUP or act on an appeal.

⁸ State law now allows for individuals to petition the Board of Adjustment requesting notification of any decision. We are incorporating this allowance with the proposed modification.

⁹ Staff sends out notice of decisions via certified mail. State law was modified to allow for first-class mail to be utilized. We are not recommending changing our current procedure as we believe sending decisions via certified mail ensures we have a record of our actions.

(B) Public Hearing Required

- (1) The EIS, along with all comments received during the review period, shall be presented for public hearing concurrently with the development project.
- (2) If a public hearing before the Board of County Commissioners is not required for approval of the development project, then a special hearing shall be scheduled. The hearing shall take place no later than 30 days after the close of the public review period or receipt of comments from the State Clearinghouse, whichever is later.

(C) Notice of Public Hearing

- (1) Notice of the public hearing to review the EIS and receive public comment shall be published at least twice in a newspaper of general circulation in the county, stating the time and place of the hearing.
- (2) Said notice shall appear in said newspaper for two successive weeks with the first notice appearing not less than ten nor more than 25 days before the date set for the public hearing. In computing the notice period, the day of publication is not to be included, but the day of the hearing is to be included.

(D) Board of County Commissioners Action

- (1) The Board of County Commissioners shall receive the EIS and all comments as information only. The information presented may be used only to determine compliance with specific development standards established in this Ordinance.
- (2) No action shall be taken on the development project until after the EIS has been presented to the Board of County Commissioners.

(E) Effect on Other Permits and Actions

Construction or installation of any major development project shall not commence until subsequent to the filing of a Finding of No Significant Impact or acceptance of the Final EIS by the Board of County Commissioners.

SECTION 2.25: APPEALS

Section 2.25-SECTION 2.26: APPEALS¹⁰

2.25.12.26.1 Generally

Appeal applications shall be filed in accordance with Section 2.2 within 30 days of the decision being appealed on forms provided by the Planning Department, if applicable.

2.25.22.26.2 Planning Director Decisions

(A) Site Plans or Other Decision Pertaining to this Ordinance

Any decision of the Planning Director regarding a site plan application or other decision pertaining to this Ordinance not listed in (B) through (D) below may be appealed to the Board of Adjustment according to the provisions set forth in Section 2.12 of this Ordinance.

- (1) An appeal to the Board of Adjustment from a decision or determination of the Planning Director stays all proceedings in furtherance of the decision or determination appealed from, except:
 - (a) Situations that, in the opinion of the Planning Director, a stay would cause imminent peril to life and/or property.

¹⁰ The appeals section is proposed to be re-numbered as part of a current amendment proposal associated with Neighborhood Information meetings for governmental uses. This amendment was heard at the September 9, 2013 Quarterly Public Hearing and will be decided upon by the BOCC on November 5, 2013.

- (b) That the situation appealed from is transitory in nature and, therefore, an appeal would seriously interfere with enforcement of the Ordinance.

In either instance in (a) and (b) above, the Planning Director shall place in certificate the facts to support the conclusion.

(B) Exempt Subdivisions

- (1) The decision of the Planning Director regarding an exempt subdivision application may be appealed to the Board of County Commissioners.
- (2) The Board of County Commissioners shall have final approval authority, and, where applicable, all Final Plats shall contain information and/or conditions approved by the Commissioners.
- (3) The Board of County Commissioners in all such appeals shall make findings of fact in support of its decision. The subdivider shall be notified, in writing, of the Board's decision.

(C) Minor Subdivisions

- (1) The decision of the Planning Director regarding a minor subdivision application may be appealed to the Board of County Commissioners.
- (2) The Board of County Commissioners shall have final approval authority, and, where applicable, all Final Plats shall contain information and/or conditions approved by the Commissioners.
- (3) The Board of County Commissioners in all such appeals shall make findings of fact in support of its decision. The subdivider shall be notified, in writing, of the Board's decision.

(D) Major Subdivisions – Final Plat

- (1) The decision of the Planning Director regarding a Major Subdivision Final Plat application may be appealed to the Board of Commissioners.
- (2) The Board of Commissioners shall have final approval authority, and where applicable, all Final Plats shall contain information and/or conditions approved by the Board of Commissioners.
- (3) The Board of Commissioners in all such appeals shall make findings of fact in support of its decision.
- (4) The applicant shall be notified, in writing, of the Board of Commissioners' decision.

2.25-32.26.3 Planning Board Decisions

(A) Major Subdivisions – Concept Plan

- (1) The decision of the Planning Board regarding Concept Plan Development Options may be appealed to the Board of Commissioners.
- (2) Any notice of appeal shall be filed, in writing, with the Planning Director within 15 days after the date of the Planning Board's decision.
- (3) If the appeal involves a plan/map approval, 16 copies of the plan/map shall be submitted along with the written appeal.
- (4) The Board of Commissioners shall have final approval authority, and, where applicable, all Concept Plan Development Options shall contain information and/or conditions approved by the Board of Commissioners.
- (5) The Board of Commissioners in all such appeals shall make findings of fact in support of its decision. The applicant shall be notified, in writing, of the Board of Commissioners' decision within ten days after said decision is made.

2.25.42.26.4 Board of Adjustment Decisions

- (A) Every decision of the Board shall be subject to review at the request of ~~any aggrieved party~~any person who has standing as detailed within NCGS 160A-393 (d) by the Superior Court by proceedings in the nature of certiorari. The appeal to Superior Court must be filed within 30 days of the availability of the notice of decision (2.12.5(A)).

2.25.52.26.5 Board of County Commissioners Decisions

(A) Quasi-Judicial Decisions

- (1) Quasi-judicial decisions made by the Board of County Commissioners pursuant to the Ordinance shall be subject to review at the request of ~~any any person who has standing as detailed within NCGS 160A-393 (d) aggrieved party~~ by the Superior Court by proceedings in the nature of certiorari.
- (2) The appeal to the Superior Court must be filed within 30 days of the filing of the decision of the Board of County Commissioners by the Planning Director or the delivery of the notice of the decision to the applicant, whichever is later.

(B) Legislative Decisions

- (1) Legislative decisions made by the Board of County Commissioners pursuant to the Ordinance shall be subject to review at the request of any aggrieved party by the Superior Court.
- (2) The appeal to the Superior Court must be filed from the date of adoption of said Ordinance within the prescribed period below:
- (a) 60 days in cases involving the appeal of an Ordinance amending the Zoning Atlas,
 - (b) 1 year (365 days) in cases involving the appeal of an Ordinance amendment the UDO,
 - (c) 3 years (1,035 days) in cases involving an appeal based on an alleged defect in the adoption process of an Ordinance amending the UDO.

2.25.62.26.6 Water Supply Watershed Critical Area Boundary Line

Appeal applications disputing the Planning Director's decision regarding the location of a Water Supply Watershed Critical Area boundary line shall be accompanied by:

- (A) A survey prepared by a North Carolina registered land surveyor or professional engineer depicting the differences between:
- (1) The locational criteria in Section 4.2,
 - (2) The official Watershed map on file in the Planning Department, and
 - (3) The boundary line the applicant asserts is correct.
- (B) A detailed explanation describing the differences in the three boundary lines contained in (A) above.

2.25.72.26.7 Special Flood Hazard Overlay District

- (A) Any property owner who has received an order to take corrective action in accordance with Section 9.7 may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten business days following issuance of the final order.
- (B) The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

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**ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE
ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 2, 2013**

**Action Agenda
Item No. 4**

SUBJECT: Review of Proposed UDO Text Amendment – Home Occupations

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

1. Comprehensive Plan and Unified Development Ordinance (UDO) Amendment Outline Form and Section 419 of the North Carolina Building Code
2. Proposed Text Amendments
3. Proposed Amendment Summary Spreadsheet

Ashley Moncado, Planner II (919) 245-2589
Craig Benedict, Director (919) 245-2575

PURPOSE: To review and comment upon a Planning Board and Planning Director initiated Unified Development Ordinance (UDO) text amendment regarding existing home occupation standards contained within the UDO.

BACKGROUND: At the January 9, 2013 Planning Board meeting, Board members discussed areas of interest in the coming year. These items were elements highlighted in the UDO Implementation Bridge report prepared when the UDO was adopted in 2011. One item of interest included the need to review existing home occupation standards to determine if there was a need for a text amendment to encourage and support their use within the county.

At the July Planning Board meeting, planning staff followed up with the Board's request with a presentation of existing standards and a review of home occupation standards from other local jurisdictions. At this time, Board members supported a text amendment revising existing standards for the November 25 Quarterly Public Hearing. Based on recommendations and direction from the Planning Board in July, staff continued the process by drafting text amendment language. During the September 4, 2013 Planning Board meeting, draft language was presented to the Board for review and comment. Additionally during this time, staff worked with the Planning Board Chair and Vice Chair to complete the Amendment Outline Form (Attachment 1) which was approved by the BOCC on September 5, 2013. Agenda materials for past Planning Board meeting are available at <http://www.co.orange.nc.us/planning/planningboard.asp>.

Staff has revised the proposed amendments to existing home occupations standards based on comments received at the September Planning Board meeting. Proposed text amendment language for review can be found in Attachment 2. Additionally, Attachment 3 contains a spreadsheet summarizing proposed revisions to Sections 2.22 and 5.5.3.

Following the October 2 ORC meeting, staff will proceed with submitting the proposed revisions to the JPA partners (Towns of Chapel Hill and Carrboro) for review and prepare the text amendment package for the Quarterly Public Hearing on November 25, 2013. The opportunity for comment by the JPA partners is required for all text amendments that could affect the Rural Buffer.

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

RECOMMENDATION: Planning staff recommends the Ordinance Review Committee review and comment upon the proposed amendments to the UDO.

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

UDO / Zoning-2013-03
Home Occupation Standards

A. AMENDMENT TYPE

Map Amendments

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

Text Amendments

- Comprehensive Plan Text:
Section(s):
- UDO Text:
 - UDO General Text Changes
 - UDO Development Standards
 - UDO Development Approval Processes
 Section(s):
- 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 Board and Planning Director are proposing to initiate a text amendment to modify existing language

relating to the regulation of home occupations within the county.

At the January 9, 2013 Planning Board meeting, Board members discussed areas of interest for planning staff to address for the next year. One item, which was highlighted in the UDO Implementation Bridge report prepared when the UDO was adopted in 2011, included the need to review existing home occupation standards for a potential revision. At that time, Board members expressed concern with the existing standards limiting home occupations by being too restrictive with the required square footage allowances and number of permitted nonresidential employees. As a result, the Board requested staff to proceed with reviewing existing standards. To address the Planning Board's request, staff presented information at the July 10, 2013 Planning Board meeting, including a summary of current standards contained in the UDO, a comparison with other local jurisdictions' standards, and items of consideration to facilitate and promote the use of home occupations. Following review and discussion, the Board asked staff to proceed with an amendment to the UDO addressing their comments and areas of interest relating to the UDO Implementation Bridge report.

The proposed amendment will include language revising existing use standards and a reference to Section 419, Live/Work Units, of the 2012 North Carolina Building Code regarding the review and permitting of home occupations that are classified as live/work units. Although planning staff considers this Section of the building code, adopted in 2012, to be restrictive, local governments cannot amend laws, codes and/or rules adopted by the State. Staff anticipated that this Section of the building code will result in prospective home occupation applicants deciding to locate their home occupation in an accessory structure if the home occupation comprises of more than ten percent of their home's square footage. A copy of Section 419 is included at the end of this form.

The purpose of the proposed amendment is to develop standards that accommodate and encourage the use of larger scale home occupations while meeting standards of the North Carolina Building Code in order to incorporate recommendations of the Implementation Bridge into the Unified Development Ordinance. Additionally, uses such as artist studios often are considered home occupations and the updated standards will apply to artist studios. This is a topic that was raised at the February 2013 BOCC retreat and the May 14, 2013 BOCC work session when Agricultural Support Enterprises were discussed.

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 proposed text amendment is designed to address suggested modifications from the Planning Board’s area of interest and elements of the UDO Implementation Bridge. Additional analysis will be provided as part of the quarterly public hearing materials.

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

Economic Development Overarching Goal: Viable and sustainable economic development that contributes to both property and sales tax revenues, and enhances high quality employment opportunities for County residents.
Economic Development Objective 1.5: Identify barriers to development of desirable businesses and local businesses, and mitigate these barriers.

4. New Statutes and Rules

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

 September 5, 2013
- b. Quarterly Public Hearing

 November 25, 2013
- c. BOCC Updates/Checkpoints

 November 5, 2013 – approve legal ad for public hearing
 January 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.

- a. Planning Board Review:

 July 10, 2013 – discussion of topic
 September 4, 2013 – further discussion
 October 2, 2013 – Ordinance Review Committee
 December 4, 2013 – recommendation to BOCC
- b. Advisory Boards:

- _____
- _____
- c. Local Government Review:
 Draft text will be sent to JPA partners
 prior to public hearing

- d. Notice Requirements
 Consistent with NC State Statutes – legal ad prior to public hearing
- e. Outreach:
 - General Public: _____
 - Small Area Plan Workgroup: _____
 - Other: _____

3. FISCAL IMPACT

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

D. AMENDMENT IMPLICATIONS

Proposed amendments to existing home occupation standards include two types of home occupations. The first type, minor home occupations, follows the existing review process in place for home occupations with revisions allowing for an increase in square footage and number of employees in all residential districts. The second type, major home occupations, is proposed in order to accommodate larger scale accessory business uses in the AR, Agricultural Residential, and R-1, Rural Residential, zoning districts. A Class B Special Use Permit will be required for major home occupations. The number of employees and permitted amount of square footage utilized in a major home occupation shall be determined with the approved special use permit.

Additional minor revisions to existing standards will address traffic generation, accessory structures, outdoor storage space, and landscaping for all home occupations. Proposed amendments will introduce standards addressing the total number of students, customers, and/or clients permitted per day and number of events and attendees permitted per year. Finally, definitions referencing minor home occupations and major home occupations are proposed within Article 10. The Planning Board and staff endeavor to be mindful of any adverse impacts that may occur in the various types of residential districts found in the county while creating the amendment package.

E. SPECIFIC AMENDMENT LANGUAGE

See Attachment 2 for draft language

Primary Staff Contact:

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(3) Structural stormwater measures that are designed, constructed and maintained in accordance with the NC DWQ Stormwater BMP Design Manual, approved accounting tool, and requirements listed in Section 6.14 will be presumed to meet the required performance standards of Section 6.14. Submittals containing measures not designed to these specifications, may be approved on a case by case basis provided the applicant provides adequate data and information showing how the deviations meet the requirements of Section 6.14.

(C) Plan Approval

The Erosion Control Officer is authorized to approve any Stormwater Management Plan which is in conformance with the performance standards specified in the NC DWQ Stormwater BMP Design Manual, and other requirements of this Ordinance.

(D) Approved Plan a Prerequisite

The Erosion Control Officer is not authorized to issue any permits for development on any land that is defined as new development under Section 6.14 of this Ordinance unless and until a Stormwater Management Plan in compliance with the requirements of this Ordinance has been approved.

(E) Design of Permanent Nutrient Export Reduction Structural Stormwater Measures

When a permanent nutrient export reduction structural stormwater measure is required for new development to meet the requirements of this Ordinance, a North Carolina registered professional engineer shall prepare the plan with the Engineer's Certification of Stormwater Management affixed, signed, sealed and dated.

SECTION 2.22: HOME OCCUPATIONS

2.22.1 Application Requirements

- (A)** An application for a Home Occupation Permit shall be filed with the Planning Director on forms provided by the Planning Department.
- (B)** Application forms shall be prepared so that when completed a full and accurate description of the proposed use, including its location, appearance, and operational characteristics are disclosed.
- (C)** An application for a minor home occupation shall include a plot plan that adheres to the requirements of Sections 2.4.3 and 5.5.3.
- (D)** An application for a major home occupation shall require a Class B Special Use Permit and adhere to the requirements of Sections 2.5.3, 2.7, and 5.5.3.

2.22.2 Conditions of Approval

- (A)** If conditions are attached to the approval of a permit, they may address deficiencies in meeting specific Ordinance requirements or they may address specific impacts which result from the operation of the home occupation.
- (B)** If conditions address specific impacts which result from the operation of the home occupation, the conditions may include, but not be limited to the following limitations:
 - (1)** Hours of operation;
 - (2)** Number of vehicles to be parked on the premises;
 - (3)** The location of an accessory building, storage area or parking on the property.
- (C)** The Planning Director may require greater setbacks and/or additional landscaping or screening to adequately screen the home occupation from adjoining properties.

5.5.2 Efficiency Apartment**(A) General Standards of Evaluation**

- (1) There shall be no more than one efficiency apartment, whether detached or attached, on any lot.
- (2) The efficiency unit shall contain no more than 800 square feet of gross floor area.
- (3) The residential lot shall meet the minimum lot size requirements of the zoning district in which it is located.
- (4) The efficiency unit shall comply with the N.C. Residential Building Code including minimum light/ventilation and room sizes.
- (5) The efficiency unit shall be accessory to the principal dwelling unit and may be attached or detached.
- (6) The efficiency unit shall be served by an approved water supply and sanitary facilities.
- (7) The efficiency unit shall remain in the same ownership as the primary residence.

5.5.3 Home Occupations**(A) General Standards****(1) Submittal Requirements**

In addition to the completed application form, applicants for a **minor or major home** occupation shall submit the following to the Planning Department:

(a) Minor Home Occupations

- (i) A plot plan of the property on which the home occupation is to be located. The plot plan shall show:
 - a. The location of the residence **and/or** accessory building in which the home occupation is to be located in relation to existing property lines and adjacent homes;
 - b. The location, number, and means of access to required off street parking areas; and
 - c. The location and type of required landscaping and/or screening.
- (ii) A floor plan of the residence **and/or** accessory building in which the home occupation is to be located showing the location, size, and use of each room or area within the residence **and/or** accessory building.

(b) Major Home Occupations

- (i) A site plan of the property on which the home occupation is to be located. The site plan shall show:
 - a. The location of the residence **and/or** accessory building in which the home occupation is to be located in relation to existing property lines and adjacent homes;
 - b. The location, number, and means of access to required off street parking areas; and
 - c. The location and type of required landscaping and/or screening.

- (ii) A floor plan of the residence and/or accessory building in which the home occupation is to be located showing the location, size, and use of each room or area within the residence and/or accessory building.

(2) Standards of Evaluation

(a) All Home Occupations

- (i) No home occupation may be operated in a residence except as permitted under this Ordinance and only after a Home Occupation Permit has been issued in accordance with the provisions of Section 2.21 2.22 of this Ordinance.
- (ii) Home based business operations that do not include nonresident employees located onsite, signage, onsite retail sales, or onsite students, customers, and/or clients do not require a home occupation permit.
- (iii) Uses Not Permitted
 - a. The following activities are explicitly prohibited as home occupations:
 - i. Automotive repair,
 - ii. Automotive service,
 - iii. Automotive detailing,
 - iv. Body shop,
 - v. Hauling, and
 - vi. Building, electrical, plumbing, mechanical, grading or other construction contracting.
 - b. The above list is not intended to include all uses which may be unsuitable as a home occupation. Home Occupation applications for other uses may be denied if the Standards of Evaluation listed herein are not fully met.
- (iv) No equipment or process shall be employed that will cause noise, vibration, glare, odor or electrical interference detectable to the normal senses at the lot lines in the case of detached dwelling units or outside the dwelling unit, in the case of attached dwelling units.
- (v) The on-premises sale and/or delivery of goods which are not produced on the premises is prohibited, except in the case of the delivery and sale of goods incidental to the provision of a service.

(b) Minor Home Occupations

(i) General Operations

The following requirements apply to minor home occupations in all residential districts:

- a. The owner or operator of the home occupation must live in a residence located on the same zoning lot as the home occupation. ~~No more than two individuals not living in the residence may work in the home occupation.~~ Minor home occupations shall not exceed four nonresident employees onsite at any one time.

- b. In all residential districts ~~except RB, AR and R-1~~, no more than 35% of the floor area of the dwelling unit or ~~500~~ 750 square feet, whichever is less, may be used for the home occupation.
 - c. Up to two events per year, not to exceed three consecutive days each, with a maximum of thirty attendees per day shall be permitted.
 - d. Up to six students, customers, and/or clients shall be permitted onsite at any one time, not to exceed a total of twelve students, customers, and/or clients per day with the exception of Section 5.5.3(A)(2)(b)(i)c.
- (ii) Limitations on Traffic Generation
- a. ~~Traffic generated by visitors, customers, or deliveries shall not exceed more than two business trips per hour, more than eight trips per day or more than two deliveries of products or materials per week. All deliveries must be made by vehicles of a size normally used for household deliveries.¹~~
 - b. Parking generated by the home occupation, ~~including parking for events~~, shall be met off the street and ~~other than~~ not in a required yard area.
 - c. There shall be no use of a vehicle with a load capacity in excess of one ton in connection with the home occupation. ~~including vehicles used for delivery or pick-up. Vehicles with the permitted load capacity generally include large pick-up trucks, and delivery trucks and vans such as those used by UPS, but would not include vehicles such as tractor trailers or dump trucks.²~~
- (iii) Use of Accessory Structures
- a. An accessory building containing up to ~~4000~~ 1,500 square feet may be utilized in the ~~RB, AR and R-1 residential~~ zoning districts, provided that building has the appearance of a residential accessory structure.³
 - b. The accessory structure must be screened from view of the road and adjacent property by a densely planted evergreen hedge of shrubs or trees. In lieu of an evergreen hedge, a six foot stockade fence and deciduous ~~plant materials~~ ~~vegetation planted along the outside of the fence~~ may be used for screening purposes.

¹ Existing standards regulating the number of trips and deliveries per hour, day, and week were found to be inconsistent with proposed language limiting the number of students, customers, clients, and event attendees onsite per day. As a result, these standards are being proposed to be removed to allow traffic generation standards concerning daily trips and parking to be regulated by the number of permitted students, customers, clients, and event attendees onsite at any one time or per day. Additionally, proposed standards shall allow for an increase in deliveries while limiting the type of vehicle to a size normally used for household deliveries.

² Staff recommends the existing language to be revised in order to avoid a potential inconsistency with standards contained within item a.

³ Revised standards are proposed to allow the use of accessory structures up to 1,500 feet in all residential districts contained within Section 3.3, Residential Districts, instead of limiting this use to only the RB, AR, and R-1 districts.

- c. New structures built for the purpose of conducting a home occupation shall not exceed ~~4000~~ 1,500 square feet in area.
 - d. An existing accessory structure which is larger than ~~4000~~ 1,500 square feet may be used for the home occupation provided that no more than ~~4000~~ 1,500 square feet is used for the home occupation and the area is physically separated by walls or other barriers. In order to qualify as an existing accessory structure for the purpose of conducting a home occupation, the structure must have been constructed to meet building code requirements applicable to a residential accessory structure, and must have been in existence for at least 36 months.
- (iv) Use of Outdoor Storage
- a. Up to 500 square feet of outdoor storage area ~~may be used~~ shall only be permitted in the RB, AR and R-1 zoning districts provided that it:
 - i. Is clearly defined on the site plan and on the ground.
 - ii. Is located at least 40 feet from any lot line or road right-of-way; and
 - iii. Is totally screened from the view from the road and from adjacent property in the same manner as is required for accessory buildings.
- (c) Major Home Occupations
- (i) General Operations
- The following requirements apply to major home occupations:
- a. Major home occupations shall only be permitted in the AR and R-1 zoning districts.
 - b. All major home occupations shall be located on parcels at least five acres in size.
 - c. All accessory structures, outdoor storage space, and parking areas used in conjunction with the home occupation shall be setback at least 100 feet from all property lines and public or private roadways.
 - d. The owner or operator of the home occupation must live in a residence located on the same zoning lot as the home occupation. Based on the approved Special Use Permit, no more than ten permanent and/or temporary nonresident employees shall be permitted onsite at any one time.
 - e. Up to four events per year, not to exceed three consecutive days each, with a maximum of seventy five attendees per day shall be permitted.
 - f. Up to fifteen students, customers, and/or clients shall be permitted onsite at any one time, not to exceed a total of thirty students, customers, and/or clients per day with the exception of Section 5.5.3(A)(2)(c)(i)e.
- (ii) Limitations on Traffic Generation

- a. All major home occupations shall conform to the standards of Section 5.5.3(A)(2)(b)(ii).
- b. Major home occupations located on public roadways may be required to submit a driveway permit prior to approval.
- c. Major home occupations located on shared private roadways shall be required to submit a private road maintenance agreement prior to approval.

(iii) Use of Accessory Structures

- a. An accessory building containing up to 2,500 square feet may be utilized, with the approval of a major home occupation, on tracts totaling five to ten acres in size. Accessory buildings up to 3,000 square feet may be utilized, with the approval of a major home occupation, on tracts greater than ten acres in size.
- b. The accessory structure must be screened from view of the road and adjacent property by a densely planted evergreen hedge of shrubs or trees. In lieu of an evergreen hedge, a six foot stockade fence and deciduous vegetation planted on the outside of the fence may be used for screening purposes.
- c. New accessory structures built for the purpose of conducting a home occupation shall not exceed square footage allowances referenced in Section 5.5.3.A(2)(e)(iii)a.
- d. An existing accessory structure which is larger than the permitted size referenced in Section 5.5.3.A(2)(e)(iii)a may be used for the home occupation provided that no more than the permitted amount of square feet is used for the home occupation and the area is physically separated by walls or other barriers. In order to qualify as an existing accessory structure for the purpose of conducting a home occupation, the structure must have been constructed to meet building code requirements applicable to a residential accessory structure, and must have been in existence for at least 36 months.

(iv) Use of Outdoor Storage Space

- a. Up to 500 square feet of outdoor storage area may be used in conjunction with major home occupations provided that it is:
 - i. Clearly defined on the site plan and on the ground.
 - ii. Located at least 100 feet from any lot line or road right-of-way; and
 - iii. Totally screened from the view from the road and from adjacent property in the same manner required for accessory buildings.

~~5.5.4 Mobile Home Parks~~

~~(A) Standards for MHP-CZ~~

~~(1) Permitted Uses and Structures~~

High-Density Option

One of two approaches available for development in some watershed overlay districts. Generally, the high-density option relies on density limits and engineered stormwater controls to minimize the risk of water pollution.

Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure

Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program," which has been approved by the Department of the Interior; or
- d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program". (CLG Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966, as amended).

Holiday Decoration

Holiday displays, decorations and greetings, which relate to any federally designated holiday, legal holiday or religious holiday.

Home Occupation, Major

An accessory business use which is owned and operated by the resident of the property, located on a single parcel of land at least five acres in size in the AR and R-1 zoning districts, and is clearly incidental and subordinate to the principal residential use of the property. Major home occupations, which do not meet standards of a minor home occupation, shall accommodate for larger scale accessory business uses by allowing for an increase in square footage, number of onsite employees, students, customers, clients, and annual events with an approved Class B Special Use Permit.

Home Occupation, Minor

An accessory business use which is owned or operated by the resident of a residentially-zoned property which business and is clearly incidental and subordinate to the principal residential use of the property.

Hotel, Motel, Motor Lodge, Motor Inn, Inn, Tourist Court

A building or group of attached or detached buildings containing, in combination, ten or more lodging units, or ten or more dwelling units intended primarily for rental or lease to transients by the day or week, as distinguished from multi-family dwellings, rooming houses and residential hotels in which rentals and leases are for weekly or longer periods and occupants are generally residents rather than transients.

Hotel, Residential

A building or group of attached or detached buildings containing, in combination, ten or more lodging units available for occupancy only for periods of thirty days or longer, provided, however, that temporary lodging units for guests of regular tenants may be provided in any residential hotel, with number of such units limited to 10% of the number of tenant lodging units.

Immediate Neighborhood

A subdivision or area of the county which distinguishes it from other subdivisions or areas by virtue of its location within the service area of a park site or sites as shown on the adopted "Recreation Service Area Boundaries Map" on file in the Planning Department.

Revised Standards			
	Existing Language	Proposed Language	
		Minor Home Occupations	Major Home Occupations
Application Requirements Section 2.22.1	An application shall include a plot plan that adheres to the requirements of Sections 2.4.3 and 5.5.3.	An application for a minor home occupation shall include a plot plan that adheres to the requirements of Sections 2.4.3 and 5.5.3.	An application for a major home occupation shall require a Class B Special Use Permit and adhere to the requirements of Sections 2.5.3, 2.7, and 5.5.3.
Standards of Evaluation Section 5.5.3(A)(2)		No home occupation may be operated in a residence except as permitted under this Ordinance and only after a Home Occupation Permit has been issued in accordance with the provisions of Section 2.22 of this Ordinance.	
		The following activities are explicitly prohibited as home occupations: automotive repair, automotive service, automotive detailing, body shop, hauling, and building, electrical, plumbing, mechanical, grading or other construction contracting.	
		No equipment or process shall be employed that will cause noise, vibration, glare, odor or electrical interference detectable to the normal senses at the lot lines in the case of detached dwelling units or outside the dwelling unit, in the case of attached dwelling units.	
		The on-premises sale and/or delivery of goods which are not produced on the premises are prohibited, except in the case of the delivery and sale of goods incidental to the provision of a service.	
		Home based business operations that do not include nonresident employees located onsite, signage, onsite retail sales, or onsite students, customers, and/or clients do not require a home occupation permit.	
General Operations 5.5.3(A)(2)(b)(i) and 5.5.3(A)(2)(c)(i)	The owner or operator of the home occupation must live in a residence located on the same zoning lot as the home occupation. No more than two individuals not living in the residence may work in the home occupation.	The owner or operator of the home occupation must live in a residence located on the same zoning lot as the home occupation. Minor home occupations shall not exceed four nonresident employees onsite at any one time.	The owner or operator of the home occupation must live in a residence located on the same zoning lot as the home occupation. Based on the approved Special Use Permit, no more than ten permanent and/or temporary nonresident employees shall be permitted onsite at any one time.

Existing Language to be revised within the referenced section of the UDO

Existing Language to remain within the referenced section of the UDO

Proposed Language to be added within the referenced section of the UDO

Revised Standards			
	Existing Language	Proposed Language	
		Minor Home Occupations	Major Home Occupations
General Operations 5.5.3(A)(2)(b)(i) and 5.5.3(A)(2)(c)(i)	In all residential districts except RB, AR and R-1, no more than 35% of the floor area of the dwelling unit or 500 square feet, whichever is less, may be used for the home occupation.	In all residential districts except RB, AR and R-1, no more than 35% of the floor area of the dwelling unit or 750 square feet, whichever is less, may be used for the home occupation.	The total amount of allowable square footage of dwelling units in conjunction with major home occupations exceeding permitted square footage allowances referenced in Section 5.5.3.A.2.(e).(i).c, Minor Home Occupations, shall be determined with an approved Special Use Permit.
		Up to two events per year, not to exceed three consecutive days each, with a maximum of thirty attendees per day shall be permitted.	Major home occupations shall only be permitted in the AR and R-1 zoning districts.
		Up to six students, customers, and/or clients shall be permitted onsite at any one time, not to exceed a total of twelve students, customers, and/or clients per day with the exception of Section 5.5.3(A)(2)(b)(i).c.	All major home occupations shall be located on parcels at least five acres in size.
			All accessory structures, outdoor storage space, and parking areas used in conjunction with the home occupation shall be setback at least 100 feet from all property lines and public or private roadways.
			Up to four events per year, not to exceed three consecutive days each, with a maximum of seventy five attendees per day shall be permitted.
			Up to fifteen students, customers, and/or clients shall be permitted onsite at any one time, not to exceed a total of thirty students, customers, and/or clients per day with the exception of Section 5.5.3(A)(2)(c)(i).e.
Limitations on Traffic Generation 5.5.3(A)(2)(b)(ii) and 5.5.3(A)(2)(c)(ii)	Traffic generated by visitors, customers, or deliveries shall not exceed more than two business trips per hour, more than eight trips per day, or more than two deliveries of products or materials per week.	All deliveries must be made by vehicles of a size normally used for household deliveries.	
	Parking generated by the home occupation shall be met off the street and other than in a required yard area.	Parking generated by the home occupation, including parking for events, shall be met off the street and not in a required yard area.	

Existing Language to be revised within the referenced section of the UDO

Existing Language to remain within the referenced section of the UDO

Proposed Language to be added within the referenced section of the UDO

Revised Standards			
	Existing Language	Proposed Language	
		Minor Home Occupations	Major Home Occupations
Limitations on Traffic Generation 5.5.3(A)(2)(b)(ii) and 5.5.3(A)(2)(c)(ii)	There shall be no use of a vehicle with a load capacity in excess of one ton in connection with the home occupation including vehicles used for delivery or pick-up. Vehicles with the permitted load capacity generally include large pick-up trucks, and delivery trucks and vans such as those used by UPS, but would not include vehicles such as tractor trailers or dump trucks.	There shall be no use of a vehicle with a load capacity in excess of one ton in connection with the home occupation.	Major home occupations located on public roadways may be required to submit a driveway permit prior to approval.
			Major home occupations located on shared private roadways shall be required to submit a private road maintenance agreement prior to approval.
Use of Accessory Structures Sections 5.5.3(A)(2)(b)(iii) and 5.5.3(A)(2)(c)(iii)	An accessory building containing up to 1000 square feet may be utilized in the RB, AR and R-1 zoning districts, provided that building has the appearance of a residential accessory structure.	An accessory building containing up to 1,500 square feet may be utilized in the RB, AR and R-1 zoning districts, provided that building has the appearance of a residential accessory structure.	An accessory building containing up to 2,500 square feet may be utilized with the approval of a major home occupation on tracts totaling five to ten acres in size.
		The accessory structure must be screened from view of the road and adjacent property by a densely planted evergreen hedge of shrubs or trees. In lieu of an evergreen hedge, a six foot stockade fence and deciduous vegetation planted along the outside of the fence may be used for screening purposes.	Accessory structures containing up to 3,000 square feet may be utilized with the approval of a major home occupation on tracts totaling eleven acres or more in size.
Use of Outdoor Storage Space Sections 5.5.3(A)(2)(b)(iv) and 5.5.3(A)(2)(c)(iv)	Up to 500 square feet of outdoor storage area may be used in the RB, AR and R-1 zoning districts	Up to 500 square feet of outdoor storage area shall only be permitted in the RB, AR and R-1 zoning districts.	Up to 500 square feet of outdoor storage area may be used in conjunction with a major home occupation in the AR and R-1 zoning districts.

Existing Language to be revised within the referenced section of the UDO

Existing Language to remain within the referenced section of the UDO

Proposed Language to be added within the referenced section of the UDO

Revised Standards			
	Existing Language	Proposed Language	
		Minor Home Occupations	Major Home Occupations
Definitions Section 10.1	An accessory business use, which is owned or operated by the resident of residentially-zoned property, which business is clearly incidental and subordinate to the principal residential use of the property.	An accessory business use which is owned or operated by the resident of a residentially-zoned property and is clearly incidental and subordinate to the principal residential use of the property.	An accessory business use which is owned and operated by the resident of the property, located on a single parcel of land at least five acres in size in the AR and R-1 zoning districts, and is clearly incidental and subordinate to the principal residential use of the property. Major home occupations, which do not meet standards of a minor home occupation, shall accommodate for larger scale accessory business uses by allowing for an increase in square footage, number of onsite employees, students, customers, clients, and annual events with an approved Class B Special Use Permit.

Existing Language to be revised within the referenced section of the UDO

Existing Language to remain within the referenced section of the UDO

Proposed Language to be added within the referenced section of the UDO

**ORANGE COUNTY
PLANNING BOARD ORDINANCE REVIEW COMMITTEE**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 2, 2013

**Action Agenda
Item No. 5**

SUBJECT: Agricultural Support Enterprises

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

1. Comprehensive Plan/UDO Amendment Outline Form (UDO/Zoning 2013-06)
2. Chart of Basic Zoning Program
3. Draft UDO and Comprehensive Plan Text Amendments

INFORMATION CONTACT: (919)

Perdita Holtz, Planning, 245-2578
Michael Harvey, Planning, 245-2597
Craig Benedict, Planning, 245-2592

PURPOSE: To review and comment upon Planning Director initiated Unified Development Ordinance (UDO) and 2030 Comprehensive Plan text amendments to implement a program commonly referred to as "Agricultural Support Enterprises".

BACKGROUND: The Agricultural Support Enterprises (ASE) project has been in development since 2001 and has been known by other names ("Rural Enterprises" and "Agricultural Services") in the past. The lead departments on this project historically have been Economic Development and the former ERCD (Environment & Resource Conservation Department), which is now DEAPR (Department of Environment, Agriculture, Parks and Recreation), in conjunction with the County Attorney. However, due to staff changes and the fact the program involves amendments to the Unified Development Ordinance and Comprehensive Plan, the Planning and Inspections Department has become more involved in the project and has completed the necessary draft amendments to the UDO and Comprehensive Plan.

The project has been on several Board of County Commissioners (BOCC) agendas through the years and the following meeting materials can be reviewed for additional context:

February 23, 2004 <http://orangecountync.gov/OCCLERKS/0402231.pdf>
 March 29, 2004 <http://orangecountync.gov/OCCLERKS/040329.htm> (JPA Information Item)
 February 28, 2005 <http://orangecountync.gov/OCCLERKS/050228c1.pdf>
 May 23, 2005 <http://orangecountync.gov/OCCLERKS/050523d1.pdf>
 May 22, 2006 <http://orangecountync.gov/OCCLERKS/060522d2.pdf>
 May 21, 2007 <http://orangecountync.gov/OCCLERKS/070521d1.pdf>
 June 12, 2007 <http://orangecountync.gov/OCCLERKS/0706124ii.pdf>
 August 27, 2007 <http://orangecountync.gov/OCCLERKS/070827d1.pdf>
 May 14, 2013 <http://orangecountync.gov/occlerks/130514.pdf> (see this abstract for additional recent background information)

September 9, 2013 <http://orangecountync.gov/occlerks/130909.pdf> (recent work session to discuss approval process if a BOCC public hearing is required; staff will be working on amendments to the approval process for all projects, not just ASE projects. This will be a separate text amendment, possibly for the February 2014 quarterly public hearing)

Meeting minutes for these meetings can be found by referencing the appropriate folder at: <http://server3.co.orange.nc.us:8088/weblink8/Browse.aspx?startid=3&dbid=0>

A chart depicting the basic zoning program for ASE uses is contained in Attachment 2. This chart shows which uses are allowed in which zoning districts and directs users to the section of the UDO that contains any specific use standards. From a zoning/land use perspective, the ASE program involves:

- creating a new conditional zoning district,
- adding additional permitted uses to some of the existing general use zoning districts,
- creating standards that ASE uses must meet,
- updating some of the development standards in Article 6,
- defining what the use is (Article 10 – Definitions), and
- amending the Land Use and Zoning Matrix of the 2030 Comprehensive Plan to show which Land Use classifications the new conditional zoning district (ASE-CZ) would potentially be allowed in.

The “Amendment Outline Form” (Attachment 1) for these amendments was approved by the BOCC at its September 5, 2013 regular meeting. This item is expected to be on the February 2014 quarterly public hearing agenda. Other steps included in the amendment outline form are as follows:

- October 2, 2013 – Planning Board ORC (Ordinance Review Committee) meeting
- October 16, 2013 – Agricultural Preservation Board meeting for review/comment; additional meetings as necessary
- November 21, 2013 – Assembly of Governments meeting to discuss these amendments and their applicability in the Rural Buffer
- February 2014 – Public Information Meeting (generally held the week before the quarterly public hearing so advertising can be included in the QPH legal ad)
- February 2014 – Quarterly Public Hearing on UDO/Comprehensive Plan amendments

Specific Input Needed

One of the areas of concern over the years has been the inclusion of more intensive agriculturally-related uses that potentially would be developed in the rural areas of Orange County. Examples of these more intensive uses are Sawmills, Composting Operations with Grinding, and Regional Meat Processing Facilities. It should be noted that these types of uses are currently permitted in the AS (Agricultural Service) general use zoning district and there is an existing sawmill zoned AS off of West 10 Road near Efland.

At the BOCC work session on May 14, 2013, the BOCC asked staff to get input from the advisory boards, especially the Agricultural Preservation Board, on whether removing the more intensive uses from the new conditional zoning district (ASE-CZ) would be acceptable.

Planning staff is requesting Planning Board input on this aspect of the program.

Additional Information for Planning Board

Planning staff would like to make the Planning Board aware that many of the discussions over the years have related not only to zoning/land use issues but also to Environmental Health (well, septic, and food safety [commercial kitchen]) and Building Code (buildings that allow public access must be built to more rigorous standards to enhance public safety) matters. Some people feel that some of the Environmental Health and Building Code regulations, adopted at the State level and unchangeable by local governments, are burdensome. It is possible that the Planning Board may hear input from others on these matters so staff is informing the Board of these ancillary issues.

FINANCIAL IMPACT: Existing Staff has accomplished the work completed thus far on this project. It is anticipated that existing staff will be able to complete the necessary work required for this project.

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

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

UDO / Zoning-2013-06
Agricultural Support Enterprises

A. AMENDMENT TYPE

Map Amendments

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

Text Amendments

- Comprehensive Plan Text:
Section(s): Appendix F: Land Use and Zoning Matrix
- UDO Text:
 - UDO General Text Changes
 - UDO Development Standards
 - UDO Development Approval Processes
 Section(s): Numerous sections in order to establish a new conditional zoning district, define uses, designate zoning districts for uses, and establish/modify various standards for uses. Depending on direction to be received at the September 9, 2013 BOCC work session, approval processes may also be modified.
- Other:

B. RATIONALE

1. Purpose/Mission

To complete the Agricultural Support Enterprises (ASE) project that has been in

development since 2001. The purpose of ASE is to enable bona fide farmers to engage in uses related to agriculture on their farmland in order to generate additional farm income. The ASE program will potentially allow for development of more agriculturally-related uses in the county by utilizing a new conditional zoning district (ASE-CZ). The proposed amendments will also expand agriculturally-related uses in some of the general use zoning districts.

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 Agricultural Support Enterprises (ASE) project has been in development since 2001 and has been known by other names (“Rural Enterprises” and “Agricultural Services”) in the past. The project has been on several Board of County Commissioners (BOCC) agendas through the years and the following meeting materials can be reviewed for additional context:

February 23, 2004	http://orangecountync.gov/OCCLERKS/0402231.pdf
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May 22, 2006	http://orangecountync.gov/OCCLERKS/060522d2.pdf
May 21, 2007	http://orangecountync.gov/OCCLERKS/070521d1.pdf
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May 14, 2013	http://orangecountync.gov/occlerks/130514.pdf
September 9, 2013	http://orangecountync.gov/occlerks/130909.pdf

This project is included in the “Future Phase Suggestions” section of the UDO “Implementation Bridge.” A multi-department staff group has been working on this program. Departments include DEAPR, Economic Development, Environmental Health, and Planning & Inspections (including Building Code staff).

The proposed amendments build heavily upon the work that has been completed since 2001, with some minor deviations to account for changes in statutes related to bona fide farms and to follow the general cadence of the County’s UDO (the former program had been written to fit into the former Zoning Ordinance) while maintaining the integrity of the UDO. As an example of a minor deviation, the former program proposed to allow for several of the new use categories to be permitted by right in the R-1 (Rural Residential) zoning district. Because this is inconsistent with the purpose of the R-1 zoning district, which is “to provide locations for rural non-farm residential development...” [underline added], staff is not including these uses as permitted by right in the R-1 district; property owners currently zoned R-1 who wish to engage in these uses can choose to apply for the new ASE-CZ zoning district or even the AR (Agricultural Residential) zoning district (in which these uses are proposed to be

permitted by right).

Development standards for most of the uses will be included in the UDO. Additionally, the development standards applicable to all development in Orange County (Article 6 of the UDO) will apply to the uses included in this amendment; examples of the standards in Article 6 are: land use buffers, parking, signage, stream buffers, and performance standards such as noise.

A user-friendly manual will also be part of the ASE project.

Additional analysis will be provided as part of the quarterly public hearing materials.

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

Planning Principle #5: Preservation of Rural Land Use Pattern

Planning Principle #8: Preservation of Community Character

Natural and Cultural Systems Goal 2: Economic viability of agriculture, forestry, and horticulture and their respective lands.

Natural and Cultural Systems Goal 3: Infrastructure and support systems for local and regional agriculture.

Objective AG-3: Develop programs and associated infrastructure facilities to make local farms more economically viable, including local farm product processing, development of a distribution center, and marketing initiatives.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed
 - September 5, 2013
- b. Quarterly Public Hearing
 - February 2014
- c. BOCC Updates/Checkpoints
 - May 14, 2013 work session
 - September 9, 2013 special work session
 - Early February 2014 – approve legal ad for quarterly public hearing
- d. Other
 -

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements and additional outreach as described below.

a. Planning Board Review:

October 2, 2013 – ORC Meeting
 March 2014 – for recommendation

b. Advisory Boards:

Agricultural Preservation Board –
 October 16, 2013 meeting for
 review/comment; additional APB
 meetings as deemed necessary

c. Local Government Review:

November 21, 2013 AOG Meeting to
 Present to Elected Officials

August 13, 2013 - Planning staff
 informally notified Chapel Hill and
 Carrboro Planning Directors of work
 in progress and anticipated AOG
 item.

JPA partners will be formally notified
 and invited to comment a minimum of
 30 days prior to adoption (per JPA
 Agreement). (Planning staff intends to
 transmit the proposed amendment
 package to JPA partners well before
 the 30-day minimum.)

d. Notice Requirements

Consistent with NC State Statutes and requirements in UDO – legal ad prior to public hearing.

e. Outreach:

- General Public: At least one public information meeting will be held prior to the quarterly public hearing.
- Small Area Plan Workgroup:
- Other: Planning staff will work with DEAPR staff and the Agricultural Preservation Board to ensure the “agricultural community” is informed of the amendments.

3. FISCAL IMPACT

Consideration and approval will not create the need for additional funding for the

provision of County services. Costs for the required legal advertisement will be paid from FY2013-14 Departmental funds budgeted for this purpose. Existing County staff included in Departmental staffing budgets will accomplish the work required to process this amendment and to develop the accompanying user-friendly manual.

D. AMENDMENT IMPLICATIONS

These amendments incorporate land uses the agricultural community would like to see specifically included on the Table of Permitted Uses (Section 5.2) (as opposed, for example, being considered "Retail, Class 1"). The amendments also establish a new conditional zoning district (ASE-CZ) and denote the types of uses that may be applied for as part of an ASE-CZ rezoning application, potentially allowing for development of more agriculturally-related uses in the county. The proposed amendments will also expand agriculturally-related uses in some of the general use zoning districts.

Please also see section B.2 above for additional information.

E. SPECIFIC AMENDMENT LANGUAGE

A draft of the amendment package is in Attachment 3.

Primary Staff Contact:

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Agricultural Support Enterprises

Basic Zoning Program

Notes:

1. Some uses listed below already exist within the UDO and are not proposed for changes. They are included on this table in order to address the full range of uses that are part of “Agricultural Support Enterprises” and regulated by zoning.
2. All uses are subject to the development standards contained in Article 6 of the UDO (Landscaping, Buffers, Parking, Loading, Signage, Lighting, etc.) and any other applicable section.
3. All uses are subject to any applicable Environmental Health (well, septic, food service, etc.) and Building Code regulations. These types of regulations are adopted at the State level and the local government cannot change them.
4. There may be other State or Federal requirements applicable to specific uses (e.g., meat processing for public consumption). DEAPR or Cooperative Extension staff can assist people with understanding other types of requirements.
5. A pre-development meeting is available free of charge to all persons proposing projects. All relevant County staff members (from all involved departments, depending on project proposed) are in attendance at the meeting to assist potential applicants in understanding all requirements for the potential project and the relevant processes. Prospective applicants are highly encouraged to take advantage of this service.

Type of Use ¹	General Use Zoning Districts in which Allowed	Conditional Zoning Districts in which Allowed	Standards Section for Specific Use
Agricultural Processing Facility	AS, I1, I2, I3	ASE-CZ, MPD-CZ	5.13.2
Agricultural Processing Facility, Community	RB, AR, LC1, NC2, AS, I1	ASE-CZ, CUD	5.13.3
Agricultural Services Uses	AS	ASE-CZ, MPD-CZ, CUD	none
Botanical Gardens/Arboretum	All districts except EC5 and E1	ASE-CZ	none
Cold Storage Facility	AS (w/ SUP-A), I1, I2, I3	ASE-CZ, MPD-CZ, CUD	5.13.4
Community Farmers' Market	RB, AR, LC1, NC2, CC3, GC4, AS	ASE-CZ, MPD-CZ, CUD	5.13.5

¹ What is it? Check the **definition section** of the amendment packet to see how it's defined.

Type of Use¹	General Use Zoning Districts in which Allowed	Conditional Zoning Districts in which Allowed	Standards Section for Specific Use
Composting Operation, no grinding	AS (w/ SUP-A)	ASE-CZ, CUD	5.13.6
Composting Operation, with grinding	AS (w/ SUP-A)	ASE-CZ	5.13.6
Cooperative Farm Stand	RB, AR, LC1, NC2, AS	ASE-CZ, MPD-CZ, CUD	5.13.7
Country Store	LC1, NC2, AS	ASE-CZ, MPD-CZ, CUD	None
Equestrian Center	AR (w/ SUP-A)	ASE-CZ, CUD	5.13.8
Farm Equipment Rental, Sales and Service	GC4, EC5, AS, I2, I3	ASE-CZ	5.13.9
Farm Supply Store	LC1, NC2, CC3, GC4, AS	ASE-CZ, MPD-CZ, CUD	5.13.10
Feed Mill	AS, I2, I3	ASE-CZ, MPD-CZ	5.13.11
Garden Center	LC1, NC2, CC3, GC4, AS	ASE-CZ, MPD-CZ, CUD	5.6.3
Greenhouses with On Premises Sales	AR, NC2, CC3, GC4, EC5, AS	ASE-CZ, MPD-CZ, CUD	5.13.12
Guest Ranch	none	ASE-CZ	5.7.6
Kennels, Class I	RB, AR, R1, CC3, GC4, AS	ASE-CZ	None
Kennels, Class II	w/ SUP-B only: RB, AR, R1, CC3, GC4, AS	ASE-CZ	5.6.5
Meat Processing Facility, Community	RB, AR	ASE-CZ, CUD	5.13.13
Meat Processing Facility, Regional	AS (w/ SUP-A)	ASE-CZ	5.13.14
Metal Fabrication Shop	Not explicit (would fall under one of the Industrial classifications)	ASE-CZ	5.14.1
Microbrewery, production only	I1, I2, I3 w/ SUP-B only: RB, AR	ASE-CZ, MPD-CZ, CUD	5.14.2
Microbrewery with Minor Events	w/ SUP-B only: RB, AR, I1, I2, I3	ASE-CZ, MPD-CZ, CUD	5.6.10
Microbrewery with Major Events	none	ASE-CZ, MPD-CZ	5.6.11
Off-Season Use of Farm Equipment	RB, AR, AS	ASE-CZ, CUD	5.13.15
Rural Guest Establishment: Bed & Breakfast	RB, AR, R1	ASE-CZ, MPD-CZ, CUD	5.6.7
Rural Guest Establishment: Bed & Breakfast Inn	w/ SUP-B only: AR, R1	ASE-CZ, MPD-CZ, CUD	5.6.8
Rural Guest Establishment: Country Inn	w/ SUP-A only: AR, R1	ASE-CZ, MPD-CZ, CUD	5.6.9

Type of Use¹	General Use Zoning Districts in which Allowed	Conditional Zoning Districts in which Allowed	Standards Section for Specific Use
Rural Heritage Museum	w/ SUP-B only: RB, AR, LC1, NC2, AS	ASE-CZ, CUD	5.17.7
Rural Special Events	RB, AR, AS	ASE-CZ, MPD-CZ, CUD	5.17.8
Sawmill	AS		5.14.3
Stables, Commercial	w/ SUP-B only: RB, AR, R1, CC3, GC4, AS	ASE-CZ, MPD-CZ	5.13.16
Stockyards / Livestock Markets	AS	ASE-CZ	5.13.17
Studio (Art)	LC1, NC2, CC3, GC4, OI, I1, I2, I3	MPD-CZ, REDA-CZ-1, CUD	
Taxidermy	LC1, NC2, CC3, GC4, I1 w/ SUP-B only: AR	ASE-CZ, CUD	5.6.12
Veterinary Clinic	LC1, NC2, CC3, GC4, EC5, OI, AS, I1, I2, I3 w/ SUP-B only: AR	ASE-CZ, MPD-CZ, CUD	5.16.1
Veterinary Clinic, mobile	LC1, NC2, CC3, GC4, EC5, OI, AS, I1, I2, I3 w/ SUP-B only: AR, R1	ASE-CZ, MPD-CZ, CUD	5.16.2
Veterinary Hospitals	CC3, GC4, EC5, OI, AS, I2, I3	ASE-CZ, MPD-CZ, CUD	5.16.3
Winery, production only	I1, I2, I3 w/ SUP-B only: RB, AR	ASE-CZ, MPD-CZ, CUD	5.14.4
Winery with Minor Events	w/ SUP-B only: RB, AR, I1, I2, I3	ASE-CZ, MPD-CZ, CUD	5.6.13
Winery with Major Events	none	ASE-CZ, MPD-CZ	5.6.14

Bona Fide Farming Activities

Bona fide farming activities are exempt from local zoning regulations, but may be subject to environmental health and building codes and regulations in the UDO that are not considered “zoning”. Examples of bona fide farming activities are:

- Production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock (including horses), and poultry. Includes the use of greenhouses.
- Planting and production of trees and timber
- Aquaculture
- Marketing and selling of agricultural products produced on-site (e.g., can have a farm stand or store building on the bona fide farm and farm products can include raw and value added products).
- On-site agritourism
- Storage and use of products and materials for on-site agricultural purposes
- Packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural products produced on-site
- Production of nonfarm product that the Department of Agriculture and Consumer Services recognizes as a “Goodness Grows in North Carolina” product, if produced on a farm subject to a conservation agreement in an enhanced voluntary agriculture district
- Sawmill for timber produced on-site
- Farm employee housing
- Teaching classes related to agriculture on the farm
- Winery (using predominantly grapes produced on-site)
- Microbrewery (using predominantly crops produced on-site)

Attachment 3

Amendment Package for “Agricultural Support Enterprises”

Notes

The pages that follow contain the amendments necessary to the Unified Development Ordinance (UDO) text and Comprehensive Plan text to adopt changes related to “Agricultural Support Enterprises.” The changes are consistent with the general program that has been in development since 2001.

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

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

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

At this time, a search of the UDO has not been completed to determine if any references to changed section numbers need to also be included in the amendment package. A search will be completed prior to drafting of the legal ad.

Finally, additional changes to Article 2 of the UDO may be forthcoming, depending on the outcome of the BOCC work session on September 9, 2013 where staff will seek input/direction on approval processes. Also, the amendment package is subject to change pending additional staff and advisory board review.

not be issued until the aforementioned permit has been issued by the responsible board in accordance with the review and approval procedures detailed herein.

- (B) Issuance of a Special Use or Conditional Use Permit does not negate the requirement for a Zoning Compliance Permit.
- (C) Issuance of a Zoning Compliance Permit does not establish a vested right to begin and complete construction or change the use/occupancy of a lot or building should regulations change subsequent to issuance of said permit.
- (D) Application for Zoning Compliance Permit shall specify the method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity. Open burning of trees, limbs, stumps, and/or construction debris associated with the permitted activity is expressly prohibited.
- (E) No building, structure, or zoning lot for which a Zoning Compliance Permit has been issued shall be used or occupied until the Building Inspector has, after final inspection, issued a Certificate of Occupancy indicating compliance with all the provisions of this Ordinance.
- (F) No building, structure, or zoning lot for which a Zoning Compliance Permit has been issued shall be used or occupied until the Orange County Health Department has approved the water supply and sewage disposal systems serving that use.
- (G) Issuance of a Certificate of Occupancy by the Building Official or the approval of a water supply and sewage disposal system by the Health Department shall in no case be construed as waiving any provision of this Ordinance.
- (H) Zoning Compliance Permits shall become null and void after 18 months from the date of issuance if a building permit is not applied for or land disturbing activities are not commenced in accordance with the provisions of this Ordinance.

2.4.3 Plot Plan Specifications

- (A) For development types requiring a plot plan rather than a site plan, the plot plan shall contain the following:
 - (1) A scaled drawing denoting the length of all property lines,
 - (2) A north arrow denoting the orientation of the lot and all proposed structures,
 - (3) The location of all existing structures, driveways, and areas of impervious surface¹,
 - (4) The location of the proposed structure(s) and distances from all property lines,
 - (5) The location of the proposed driveway,
 - (6) The location of the proposed septic system and proposed drain lines on the property,
 - (7) The location of the proposed well, and
 - (8) The location of any protected features on the property (i.e. stream buffers, flood plain, wetlands, etc)-, and
 - (9) The location and dimensions of proposed parking areas.

¹ Staff recommends adding this language to the requirements for a plot plan. This section seems to have been written only with new construction in mind. However, denoting the location of these items has always been asked by staff or else impervious surface could not be calculated for a lot. Additionally, some structure types are required by the building code to be a certain distance from other structures so without the information on the plot plan, it would be impossible for staff to determine compliance.

- (B) Base plot plans are available from the Planning Department and can be printed for a fee in accordance with the established fee schedule. Applicants may also use other sources of base plot plans provided the requirements of this Section are met.
 - (1) Planning staff is available to discuss compliance matters but shall not complete plot plans.

SECTION 2.5: SITE PLAN REVIEW

2.5.1 Review and Approval Flow Chart

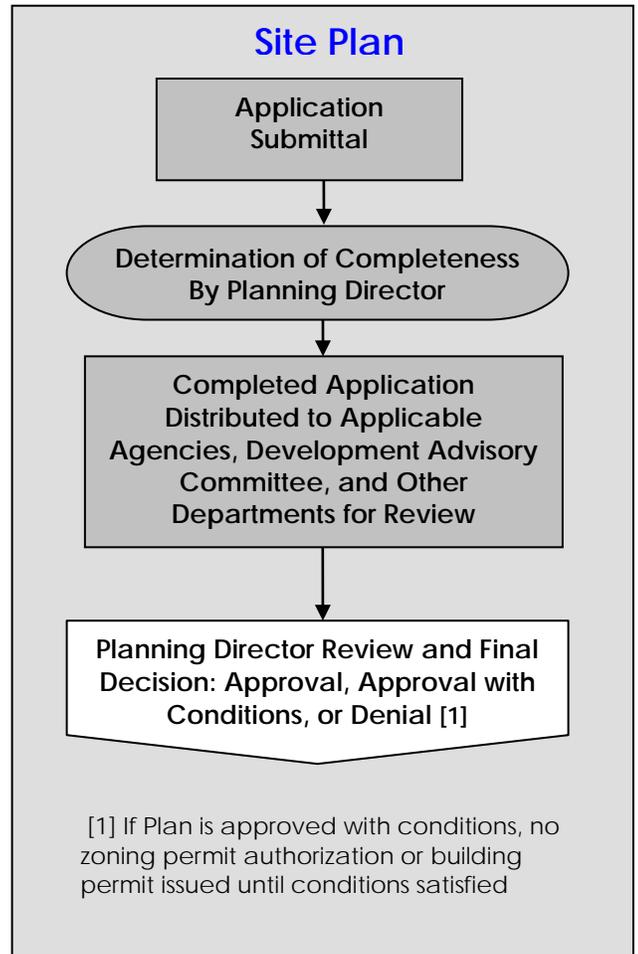
The review and approval process for a Site Plan is shown in the procedure’s flowchart.

2.5.2 Application Requirements

(A) Each site plan shall be prepared and sealed by an appropriately licensed professional with the following exceptions. The following are exempt from this requirement but must provide a plot plan pursuant to Section 2.4.3.²:

- (1) Proposed additions to existing permitted non-residential structures where the use of the structure and lot has not changed and the floor area is not increased more than 25%.
- (2) Accessory structures to existing permitted non-residential structures where vehicular use area is not extended and changes to existing grade are not more than one foot in elevation.
- (3) Large day care homes, as defined in Article 10, Definitions.
- (4) Rural Guest Establishments with three guestrooms or less - Bed & Breakfasts.
- (5) Cooperative Farm Stand.
- (6) Rural Special Events.
- (7) Non-Farm Use of Farm Equipment.

- (B) The applicant shall submit to the Planning and Inspections Department:
 - (1) Three copies of the site plan prepared in accordance with the provisions detailed in this Section. Additional copies may be required depending on the nature and location of the proposed development);
 - (2) The completed site plan application form;
 - (3) A copy of the Orange County tax map with the subject property identified;



² Staff recommends this additional language to provide more clarity that a plot plan is (and has always been) required for the uses in this list.

- (D) A rezoning request to a Conditional District is a voluntary procedure that is intended for firm development proposals.

3.8.3 Districts Established

(A) Conditional Zoning Districts

- (1) Conditional Zoning (CZ) Districts are floating zoning districts, permitted within most land use designations allowing for the development of specific land uses, in accordance with established standards.
- (2) A CZ requires the approval of a rezoning by the Board of County Commissioners, approval of a site plan or Master Plan, and may include agreed-upon conditions of development.
- (3) The following CZ districts are hereby established:
 - (a) **Agricultural Support Enterprises (ASE-CZ)**
 - (b) Mobile Home Park (MHP-CZ)
 - (c) Master Plan Development (MPD-CZ)
 - (d) NC Highway 57 Speedway Area Rural Economic Development Area (REDA-CZ-1)
- (4) Land uses permitted within CZ districts shall be those uses detailed within Section 5.2 of this Ordinance.
- (5) Development standards for each district are located in Article 6 of this Ordinance.

(B) Conditional Use Districts

- (1) Conditional Use Districts allow for the development of a specific land use, or land uses, listed on the Table of Permitted Uses in Section 5.2 of this Ordinance, even if such use is not listed as a permitted use or special use under the current zoning designation of the subject property.
- (2) Conditional Use Districts shall conform to all applicable development regulations, including uses, for the corresponding general use zoning district, as well as any specific use standards and development standards established in Articles 5 and 6 of this Ordinance.
- (3) A Conditional Use District requires the approval of a rezoning by the Board of County Commissioners, approval of a site plan, the issuance of a Class A Special Use Permit, and may include agreed-upon conditions of development.

3.8.4 Where Permitted

- (A) Conditional Districts are permitted in any Land Use classification and shall be located consistent with the existing general development pattern and the objectives of the adopted Comprehensive Plan and any adopted small area plan(s).
- (B) Conditional Districts are permitted within areas subject to the Joint Planning Agreement (JPA) between Orange County the Towns of Carrboro and Chapel Hill, subject to the terms and standards of the JPA.
- (C) Conditional Districts are permitted within the University Lake, Cane Creek, and Upper Eno Protected and Critical Watershed Overlay Districts.

ASE-CZ AGRICULTURAL SUPPORT ENTERPRISES		DIMENSIONAL AND RATIO STANDARDS³	
		Lot size, min., per use (square feet)	40,000 [1]
		Lot Width, min. (feet)	150
PURPOSE		Front Setback from ROW, min. (feet)	40
The purpose of the Agricultural Support Enterprises (ASE-CZ) District is to provide for agriculturally-related activities that are not considered bona fide farming activities within the County's planning jurisdiction.		Side Setback, min. (feet)	20 [2]
		Rear Setback, min. (feet)	20 [2]
APPLICABILITY		Height, max. (feet)	45 [3]
The district shall be located in such a manner as to be compatible with the character of existing development of surrounding properties, thus insuring the continued conservation of building values and encouraging the most appropriate use of land in the county. Therefore, when evaluating an application for this district, emphasis shall be given to the location of the proposed development, the relationship of the site and site development plan to adjoining property, and the development itself. ⁴		Floor Area Ratio, max	No requirement [4]
		Required Open Space Ratio, min.	No requirement [4]
		Required Livability Space Ratio, min.	No requirement [4]
		Required Recreation Space Ratio, min.	No requirement [4]
DIMENSIONAL STANDARDS NOTES:⁵ [1] Lot size for individual uses shall be appropriate to the method of water supply and sewage disposal. [2] Required side and rear setbacks adjacent to residentially zoned land shall be equal to the required side or rear setback of the adjacent residential district. [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] The overall development will be evaluated to ensure compatibility with surrounding properties and with planning objectives.		Required Pedestrian / Landscape Ratio, min.	No requirement [4]
ASE-CZ DISTRICT SPECIFIC DEVELOPMENT STANDARDS⁶			
1.		Uses shall be restricted to those indicated for the ASE-CZ District in Section 5.2. Additionally, non-residential uses are restricted based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.3 for land use restrictions.	
2.		Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.	
3.		The residential density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property). The ASE-CZ district is not intended for residential uses such as subdivisions. Any residential uses are to be occupied by the operator of the associated	

³ These standards are consistent with other existing zoning district such as AR and AS and/or are consistent with how other CZ districts are handled.

⁴ This statement is consistent with the statements made for other CZ districts.

⁵ Consistent with how similar uses/zoning districts are written.

⁶ These are typical of other zoning districts and seek to direct users to other applicable sections of the UDO. #3 also clarifies that residential uses in the ASE-CZ district are incidental.

-
- farm or the proprietor of the approved use.
4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Sections 4.2.5 and 4.2.6 for a breakdown of the allowable impervious surface area.
 5. For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.

- ~~(C) In addition to the listing of such uses, the Board of County Commissioners intends that the general standards and the more specific requirements established herein, shall be used by the Board of Adjustment, the Planning Board and the Board of County Commissioners, as appropriate, to direct deliberations upon application or the approval of Special Uses.~~
- ~~(D) It is the express intent of the Board of County Commissioners to delineate the areas of concern connected with each Special Use and to provide standards by which applications for such Special Use shall be evaluated.~~
- ~~(E) **Establishment of Classes of Special Uses; Authority To Approve or Disapprove**~~
~~There are hereby established the following classes of Special Uses which shall be approved or disapproved as shown:~~
- ~~(1) Class A - Approved or disapproved by Board of County Commissioners~~
- ~~(2) Class B - Approved or disapproved by Board of Adjustment~~

5.1.4 Conditional Uses

- (A) The Board of County Commissioners is mindful of its responsibility to protect the public health, safety and general welfare of the residents of Orange County and intends to encourage development within the County consistent with that purpose.
- (B) The Board of County Commissioners also recognizes that certain uses are appropriate for development in Orange County but their location and site development specifics cannot be predetermined or regulated through the use of a general zoning district designation and conventional standards.
- (C) Conditional Uses and Conditional Use Districts are hereby established and shall be reviewed in accordance with the provisions of this Ordinance.
- (D) **Permitted Uses**
- (1) Any use listed as Permitted by Right or by Special Use Permit on the Table of Permitted Uses may be approved as a Conditional Use within a Conditional Use District, unless expressly excluded in Section 5.1.4(E) of this Ordinance.
- (2) Permitted uses are subject to all general and specific standards of approval for that use, as established within this Section.
- (E) **Exclusions**
- (1) Unless otherwise noted in Section 5.2, the following uses shall not be considered or approved as a Conditional Use District within the Commercial-Industrial Transition Activity Node or Economic Development Transition Activity Node land use classifications, as designated by the adopted Comprehensive Plan:
- (a) Airports, General Aviation, Heliports, S.T.O.L,
 - (b) Class II Kennels,
 - (c) Commercial Feeder Operation,
 - (d) Composting Operation with grinding,
 - (e) Crematoria,
 - (f) Extraction of Earth Products,
 - (g) Junkyards,
 - (h) Landfills (less than 2 acres),
 - (i) Landfills (2 acres or more),
 - (j) Meat Processing Facility, Regional,

- (k) Military Installations (National Guard & Reserve Armory),
 - (l) Residential Hotel (Fraternities, Sororities, and Dormitories),
 - (m) ~~Riding Stables~~, **Commercial**,
 - (n) Sawmills,
 - (o) Stockyards / **Livestock Markets**, and
 - (p) Waste Management Facility; Hazardous & Toxic
- (2) For all land use classifications other than the Commercial-Industrial Transition Activity Node or Economic Development Transition Activity Node, the following uses shall not be considered or approved as a Conditional Use District:
- (a) **Agricultural Processing Facility**
 - (b) Airports, General Aviation, Heliports, S.T.O.L,
 - (c) Bus Terminals & Garages,
 - (d) Class II Kennels,
 - (e) Commercial Feeder Operation,
 - (f) **Composting Operation with grinding**,
 - (g) Crematoria,
 - (h) Drive-In Theaters,
 - (i) Extraction of Earth Products,
 - (j) Farm Equipment **Rental**, & Sales **and Service**,
 - (k) ~~Feed, Seed, Storage & Processing Mill~~,
 - (l) Funeral Homes,
 - (m) Health Services: Over 10,000 square feet,
 - (n) Hospitals,
 - (o) Hotels & Motels,
 - (p) Industrial, Light,
 - (q) Industrial, Medium,
 - (r) Industrial, Heavy,
 - (s) Junkyards,
 - (t) Landfills (less than 2 acres),
 - (u) Landfills (2 acres or more),
 - (v) **Meat Processing Facility, Regional**,
 - (w) Military Installations (National Guard & Reserve Armory),
 - (x) Motor Freight Terminals,
 - (y) Motor Vehicle Maintenance & Repair (Body Shop),
 - (z) Motor Vehicle Repair Garage,
 - (aa) Petroleum Products: Storage & Distribution,
 - (bb) Research Facility,
 - (cc) Residential Hotel (Fraternities, Sororities, and Dormitories),
 - (dd) ~~Riding Stables~~, **Commercial**,

- (ee) Sawmills,
- (ff) Stockyards / Livestock Markets,
- (gg) Storage of Goods, Outdoor,
- (hh) Waste Management Facility; Hazardous & Toxic, and
- (ii) Wholesale Sales.

SECTION 5.2: TABLE OF PERMITTED USES

5.2.1 Table of Permitted Uses – General Use Zoning Districts

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																						
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																						
USE TYPE	GENERAL USE ZONING DISTRICTS																					
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID	
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																						
AGRICULTURAL USES																						
Agricultural Processing Facility ~																*		*	*	*		
Agricultural Processing Facility, Community ^	*	*								*	*					*		*				
Agricultural Services Uses													Δ			*						
Cold Storage Facility																A		*	*	*		
Commercial Feeder Operation ⁸		Δ														Δ		Δ				
Community Farmers' Market ^	*	*								*	*	*	*			*						
Composting Operation, no grinding																A						
Composting Operation, with grinding ~																A						
Cooperative Farm Stand ^	*	*								*	*					*						
Equestrian Center		A																				
Farm Equipment Rental, & Sales and Service ~													*	*		*			*	*		
Farm Supply Store										*	*	*	*			*						
Feed, Seed, Storage & Processing Mill ~																*			*	*		
Greenhouses with (On Premises Sales) ^ ⁹		*									*	*	*	*		*						

⁷ It should be noted that the pre-2010 ASE work proposed that many of the ASE-related uses would also be allowed in the R-1 (Rural Residential) zoning district. Planning staff is recommending that farming-related uses not be added to the R-1 zoning district as permitted uses because the stated purpose of the R-1 zoning district is “to provide for rural **non-farm** residential development...” (emphasis added). Farming ventures currently located in an R-1 zoning district can apply to have property rezoned to either AR (Agricultural Residential) or ASE-CZ if there is interest in pursuing additional uses on the farmed property.

⁸ This is considered a bona fide farm under State Statutes and cannot be regulated with zoning so it is being recommended for deletion by staff.

⁹ Moved from “Commercial Uses” section

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																				
* = PERMITTED USE		A = CLASS A SPECIAL USE				B = CLASS B SPECIAL USE				Δ = SUBJECT TO SPECIAL STANDARDS										
USE TYPE	GENERAL USE ZONING DISTRICTS																			
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																				
Meat Processing Facility, Community ^	*	*									*	*				*		*		
Meat Processing Facility, Regional ~																A				
Non-Farm Use of Farm Equipment ^	*	*														*				
Riding-Stables, Commercial ~	B	B	B									B	B			B				
Stockyards / Livestock Markets ~																*				
CHILD CARE & EDUCATIONAL FACILITIES																				
Center in a Residence for 3 to 12 Children	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*					
Child Care Facilities	B	B	B	B	B	B	B	B	B	*	*	*	*	*	*					
Libraries										*	*	*	*	*	*					
Non-Profit Educational Cooperative		A																		
Schools: Dance, Art & Music										*	*	*	*	*	*					
Schools: Elementary, Middle & Secondary	A	A	A	A	A	A	A	A	A						A					
Schools: Vocational												*	*	*				*	*	
Universities, Colleges & Institutes	*	*	*									*	*	*	*					
COMMERCIAL USES																				
Banks & Financial Institutions										*	*	*	*	*						
Beauty & Barber Shops										*	*	*	*	*						
Rural Guest Establishment: Bed & Breakfast ¹⁰	*	*	*																	
Rural Guest Establishment: Bed & Breakfast Inn ^		B	B																	
Rural Guest Establishment: Country Inn ^		A	A																	
Country Store										*	*					*				
Drive In Theaters ~													*							

¹⁰ The three “Rural Guest Establishment” types will be moved to alphabetical order within the list as well.

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Funeral Homes ~												*	*								
Garden Center (On Premises Sales)										*	*	*	*			*					
Greenhouses (No On Premises Sales) ¹¹	*	*	*								*	*	*	*		*					
Greenhouses (On Premises Sales) ¹²		*									*	*	*	*		*					
Hotels & Motels ~												*	*								
Junkyards ~													A					A	A		
Kennels, Class II ~ ^	B	B	B									B	B			B					
Laundry & Dry Cleaning Services										*	*	*	*	*							
Massage, Business of												*	*								
Microbrewery with Minor Events ^	B	B																B	B	B	
Nightclubs, Bars, Pubs										*		*	*								
Offices & Personal Services, Class 1										*	*	*	*	*	*			*	*	*	
Offices & Personal Services, Class 2											*	*	*		*			*	*	*	
Offices & Personal Services, Class 3												*	*		*					*	
Repair Service Electronic & Appliance										*	*	*	*								
Restaurants: Carry Out											*	*	*	*							
Restaurants: Drive In												*	*	*							
Restaurants: General											*	*	*	*							
Retail, Class 1										*	*	*	*	*							
Retail, Class 2											*	*	*	*							
Retail, Class 3												*	*								

¹¹ This is a bona fide farm use and cannot be regulated by zoning

¹² Moved to “Agricultural Uses” section

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Storage of Goods, Outdoor ~														*				*	*	*	
Storage of or Warehousing: Inside Building ¹³													*	*	*			*	*	*	
Studio (Art)										*	*	*	*		*			*	*	*	
Taxidermy ^		B								*	*	*	*					*			
Tourist Home						*	*	*	*						*						
Wholesale Trade ~												*	*	*	*			*	*	*	
Winery with Minor Events ^	B	B																B	B	B	
EXTRACTIVE USES																					
Extraction of Earth Products ~		A														A		A	A	A	
GOVERNMENTAL USES																					
Governmental Facilities & Office Buildings	*	*	*	*	*	*	*	*	*	*	*	*	*		*			*	*	*	*
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments	*	*	*	*	*	*	*	*	*		*	*	*	*	*	*		*	*	*	
Military Installations (National Guard & Reserve Armory) ~											*	*	*		*						
MANUFACTURING, ASSEMBLY & PROCESSING																					
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets												*			*			*	*	*	
Industrial, Heavy ~																				*	
Industrial, Light ~																	*	*	*	*	
Industrial, Medium ~																			*	*	
Microbrewery, production only ^	B	B																*	*	*	

¹³ Staff is suggesting this typographical error be corrected as part of this UDO amendment.

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE		A = CLASS A SPECIAL USE				B = CLASS B SPECIAL USE				Δ = SUBJECT TO SPECIAL STANDARDS											
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Printing & Lithography													*	*	*				*	*	*
Sawmills ~																*					
Winery, production only ^	B	B																*	*	*	
MEDICAL USES																					
Animal-Veterinary Hospitals; Veterinarians ¹⁴													*	*	*	*	*			*	*
Health Services: Over 10,000 Sq. Ft. ~													*								
Health Services: Under 10,000 Sq. Ft.										*		*	*	*	*						
Hospitals ~													*		*						
Veterinary Clinic		B								*	*	*	*	*	*	*		*	*	*	
Veterinary Clinic, mobile		B	B							*	*	*	*	*	*	*		*	*	*	
RECREATIONAL USES																					
Botanical Gardens & Arboretums	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Camp/Retreat Center	B	B	B																		
Golf Driving and Practice Ranges		B										*	*					*			
Parks, Public & Non-Profit	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Recreational Facilities (Non-Profit)	B	B	B	B	B	B	B	B	B	B	B	B	B		B			B	B	B	
Recreational Facilities (Profit)												*	*					*			
Golf Course	A	A	A	A	A	A	A	A	A	A	A	A	A		A			A	A	A	
RESIDENTIAL USES																					
Dwelling; Mobile Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Multiple Family				*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Single-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

¹⁴ Will be moved to alphabetical order within this section

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE		A = CLASS A SPECIAL USE				B = CLASS B SPECIAL USE				Δ = SUBJECT TO SPECIAL STANDARDS											
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Dwelling; Two-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*							
Family Care Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*						
Group Care Facility	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B						
Rehabilitative Care Facility										*		*	*								
Residential Hotel (Fraternities, Sororities, and Dormitories) ~							A	A	A			A	A								
Rooming House						*	*	*	*						*						
TELECOMMUNICATIONS																					
Telecommunication Tower – Stealth (75 feet or shorter)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Telecommunication Towers (Over 75 feet and under 200 feet)	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Telecommunication Towers (200 feet and higher)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
TEMPORARY USES																					
Buildings, Portable	B	B	B	B	B	B	B	B	B			B	B	B	B	B					
Temporary Mobile Home (Custodial Care)	B	B	B	B	B	B	B	B	B						B						
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	*	*	*	*	*	*															
AUTOMOTIVE / TRANSPORTATION																					
Bus Passenger Shelter	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	
Bus Terminals & Garages ~													*					*	*	*	
Motor Freight Terminals ~																		*	*	*	
Motor Vehicle Maintenance & Repair (Body Shop) ~												*	*	*							
Motor Vehicle Repair Garage ~												*	*								

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Motor Vehicle Sales / Rental (New & Used)											Δ ¹		*	*			*	*	*	*	
Motor Vehicle Services Stations										*	*	*	*	*							
Parking As Principle Principal Use, Surface or Structure ¹⁵											*	*	*								
Petroleum Products: Storage & Distribution ~																		*	*	*	
Postal & Parcel Delivery Services												*	*		*						
UTILITIES																					
Elevated Water Storage Tanks	B	B	B	B	B	B	B	B	B	B		B	B	B		B		B	B	B	
Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A
Electric, Gas, and Liquid Fuel Transmission Lines	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B		B	B	B	
Water & Sanitary Sewer Pumping	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	*
Solar Array – Large Facility	B	B	B	B	B	B	B	B	B	B	B	B	B		B	B		B	B	B	B
Solar Array – Public Utility	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A		A	A	A	A
WASTE MANAGEMENT																					
Landfills (2 Acres or More) ~	A	A	A													A		A	A	A	
Landfills (Less Than 2 Acres) ~	B	B	B													B		B	B	B	
Waste Management Facility; Hazardous & Toxic ~													A						A	A	
MISCELLANEOUS																					
Accessory Uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Airports, General Aviation, Heliports, S.T.O.L ~	A	A	A															A	A	A	
Assembly Facility Greater Than 300												*	*								

¹⁵ Staff is suggesting this typographical error be corrected as part of this UDO amendment.

¹ See Section 5.14.1 for special standards

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																						
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																						
USE TYPE	GENERAL USE ZONING DISTRICTS																					
	RB	AR	R1 ⁷	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID	
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																						
Assembly Facility Less Than 300										*		*										
Cemetery	B	*	B	B	B	B	B	B	B													
Church	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		*	*	*	
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	*	*							*	*	*	*		*							
Community Center	B	B	B	B	B	B	B	B	B	*	*	*			*							
Crematoria ~																		*	*	*		
Historic Sites Non-Residential/Mixed Use	A	A	A																			
Kennels, Class I	*	*	*									*	*			*						
Research Facility ~											*	*	*		*			*	*	*		
Research Lands & Installations, Non-profit																						*
Rural Heritage Museum	B	B								B	B											
Rural Special Events ^	*	*														*						
Special Events (Less than 150)												*	*						*			

5.2.3 Table of Permitted Uses – Conditional Zoning Districts

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
AGRICULTURAL USES				
Agricultural Processing Facility	*	*		
Agricultural Processing Facility, Community	*			
Agricultural Services Uses	*	*		
Cold Storage Facility	*	*		
Commercial Feeder Operation ¹⁶				
Community Farmers' Market	*	*		
Composting Operation, no grinding	*			
Composting Operation, with grinding	*			
Cooperative Farm Stand	*	*		
Equestrian Center	*			
Farm Equipment Rental, & Sales and Service	*			
Farm Supply Store	*	*		
Feed, Seed, Storage & Processing Mill	*	*		
Greenhouses with (On Premises Sales) ¹⁷	*	*		
Meat Processing Facility, Community	*			
Meat Processing Facility, Regional	*			
Non-Farm Use of Farm Equipment	*			
Riding Stables, Commercial	*	*		
Stockyards / Livestock Markets	*			

¹⁶ This is a bona fide farm use and cannot be regulated by zoning so it is being recommended for deletion by staff.

¹⁷ Moved from "Commercial Uses" section.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
Teaching Farm	*			
CHILD CARE & EDUCATIONAL FACILITIES				
Center in a Residence for 3 to 12 Children				
Child Care Facilities		*		
Libraries		*		*
Non-Profit Educational Cooperative				
Schools: Dance, Art & Music		*		
Schools: Elementary, Middle & Secondary		*		
Schools: Vocational		*		
Universities, Colleges & Institutes		*		
COMMERCIAL USES				
Banks & Financial Institutions		*		
Beauty & Barber Shops		*		*
Rural Guest Establishment: Bed & Breakfast ¹⁸	*	*		
Rural Guest Establishment: Bed & Breakfast Inn	*	*		
Construction (Sector 23)		*		
Contractors, Building & Trade		*		*
Rural Guest Establishment: Country Inn	*	*		
Country Store	*	*		
Finance & Insurance (Sector 52)		*		
Funeral Homes		*		
Garden Center with {On Premises Sales}	*	*		

¹⁸ The three “Rural Guest Establishment” types will be moved to alphabetical order within the list as well.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
Greenhouses (No On Premises Sales) ¹⁹		*		
Greenhouses (On Premises Sales)		*		
Hotels & Motels		*		
Insurance Carriers & Agents		*		
Junkyards				
Kennels, Class I	*			
Kennels, Class II	*			
Laundry & Dry Cleaning Services		*		
Management of Companies & Enterprises (Sector 53)		*		
Massage, Business of		*		
Metal Fabrication Shop	*			
Microbrewery with Minor Events	*	*		
Microbrewery with Major Events	*	*		
Nightclubs, Bars, Pubs		*		
Offices & Personal Services, Class 1		*		*
Offices & Personal Services, Class 2		*		
Offices & Personal Services, Class 3		*		
Professional, Scientific & Technical Services (Sector 54)		*		
Real Estate Agents & Brokers		*		*
Repair Service Electronic & Appliance		*		
Restaurants: Carry Out		*		
Restaurants: Drive In		*		
Restaurants: General		*		
Retail, Class 1		*		

¹⁹ This is a bona fide farm use and cannot be regulated by zoning so it is being recommended for deletion by staff.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
Retail, Class 2		*		
Retail, Class 3		*		
Storage of Goods, Outdoor	*	*		*
Storage or Warehousing: Inside Building		*		*
Studio (Art)		*		*
Taxidermy	*			
Theater, Indoor or Outdoor (including Drive-ins)		*		*
Tourist Home				
Wholesale Trade		*		
Winery with Minor Events	*	*		
Winery with Major Events	*	*		
EXTRACTIVE USES				
Extraction of Earth Products				
GOVERNMENTAL USES				
Governmental Facilities & Office Buildings		*		
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments		*		
Military Installations (National Guard & Reserve Army)				
Public Administration (Sector 92)		*		
MANUFACTURING, ASSEMBLY & PROCESSING				
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets		*		
Industrial, Heavy		*		
Industrial, Light		*		
Industrial, Medium		*		
Manufacturing (Sector 31-33)		*		

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
Microbrewery, production only	*	*		
Pharmaceutical Products		*		
Printing & Lithography		*		
Sawmills	*			
Winery, production only	*	*		
MEDICAL USES				
Animal Veterinary Hospitals; Veterinarians ²⁰	*	*		
Health Services: Over 10,000 Sq. Ft.		*		
Health Services: Under 10,000 Sq. Ft		*		
Hospitals		*		
Veterinary Clinic	*	*		
Veterinary Clinic, mobile	*	*		
RECREATIONAL USES				
Arts, Entertainment & Recreation (Sector 71)				
Botanical Gardens & Arboretums	*			
Camp/Retreat Center	*			
Golf Driving and Practice Ranges		*		
Guest Ranch	*			
Parks, Public & Non-Profit	*	*		
Recreational Facilities (Non-Profit)		*		
Recreational Facilities (Profit)		*		
Golf Course		*	*	
Race Track (Motorized, etc.) and Go-Kart Track Facilities				*

²⁰ Will be moved to alphabetical order within this section.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
RESIDENTIAL USES				
Dwelling; Mobile Home	*		*	
Dwelling; Multiple Family		*		
Dwelling; Single-Family	*	*		
Dwelling; Two-Family		*		
Family Care Home				
Group Care Facility		*		
Rehabilitative Care Facility		*		
Residential Hotel (Fraternalities, Sororities, and Dormitories)				
Rooming House				
TELECOMMUNICATIONS				
Telecommunication Tower – Stealth (75 feet or shorter)	*	*		
Telecommunication Towers (150 feet in height or shorter)	*	*		
Telecommunication Towers (greater than 150 in height)	*	*		
TEMPORARY USES				
Buildings, Portable	*			
Temporary Mobile Home (Custodial Care)	*			
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	*			
TRANSPORTATION				
Bus Passenger Shelter		*		
Bus Terminals & Garages		*		
Motor Freight Terminals		*		
Motor Vehicle Maintenance & Repair (Body Shop)		*		

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
Motor Vehicle Repair Garage		*		
Motor Vehicle Sales Rental (New & Used)		*		
Motor Vehicle Services Stations		*		
Parking As Principle Principal Use, Surface or Structure ²¹		*		
Petroleum Products: Storage & Distribution		*		
Postal & Parcel Delivery Services		*		*
UTILITIES				
Elevated Water Storage Tanks	*	*		
Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	*	*		
Electric, Gas, and Liquid Fuel Transmission Lines	*	*		
Water & Sanitary Sewer Pumping	*	*		
Solar Array – Large Facility	*	*		
Solar Array – Public Utility	*	*		
WASTE MANAGEMENT				
Landfills (2 Acres or More)				
Landfills (Less Than 2 Acres)				
Waste Management Facility; Hazardous & Toxic				
MISCELLANEOUS				
Accessory Uses	*	*	*	*
Airports, General Aviation, Heliports, S.T.O.L.				
Assembly Facility Greater Than 300 Occupants	*	*		
Assembly Facility Less Than 300 Occupants	*	*		*

²¹ Staff is suggesting this typographical error be corrected as part of this UDO amendment.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
Cemetery				
Church	*	*		
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	*		
Community Center	*	*		
Crematoria (4)		*		
Historic Sites Non-Residential/Mixed Use	*	*		
Information (Sector 51)		*		
Research Facility		*		
Research Lands & Installations, Non-profit		*		
Rural Heritage Museum	*			
Rural Special Events	*	*		

There are no changes on this page, it is included to make the change on the next page more clear.

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) A description of the type facility planned, the number of occupants, and the development schedule.
- (b) A site plan showing existing and proposed contours. Proposed buildings, parking, access, service, recreation, landscaped and screened areas.
- (c) Other criteria as set forth in sections 6.2.11 and 6.3.
- (d) A statement concerning the provision of public services which shall include fire, police and rescue protection.

(2) Standards of Evaluation –

- (a) Adequate parking, access and service areas are provided for the site.
- (b) Parking, service areas and buildings are adequately screened from adjacent residential uses.
- (c) Improved recreational facilities are provided for occupants.
- (d) Other criteria as set forth in sections 6.2.11 and 6.3.
- (e) Letters from public service agencies attesting to the adequacy of the provision of public services such as fire, police and rescue.

SECTION 5.6: STANDARDS FOR COMMERCIAL USES

5.6.1 Nightclubs, Bars and Pubs

(A) General Standards for Evaluation

- (1) Buildings for nightclubs, bars and pubs shall not be located within 200 feet of a residence.

5.6.2 Massage Business

(A) General Standards for Evaluation

- (1) Must comply with the Ordinance for the Control of Massage and Massage Establishments
- (2) The submittal of construction plans for all existing and proposed buildings housing the massage business. The construction plans shall include floor plans and cross sections showing the proposed use of all portions of such buildings.
- (3) For existing buildings, certification by the Orange County Building Inspector that the structure(s) complies with the North Carolina Building Code and all related construction codes.

5.6.3 Garden Center

(A) General Standards for Evaluation

- (1) Outdoor display and storage of goods will be permitted.
- (2) Outdoor storage of bulk goods shall be located to the rear or side of the primary building and screened on three sides by an eight foot high opaque wall or fence.
- (3) Outdoor storage for bulk goods shall be limited to 1,500 square feet per acre of the zoning lot.

- (4) Land use buffers shall be provided in accordance with the requirements of Section 6.8.²²

5.6.4 Junkyards

(A) Standards for Class A Special Use Permit

(1) Submittal Requirements –

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) Detailed plans and specifications for the site screening proposed.
- (b) Description of type and number of motorized machines to be employed upon site.
- (c) Indicate on the site plan the extent of area to be used for the storage of junked or wrecked motor vehicles

(2) Standards for Evaluation -

- (a) The site shall be screened from adjacent property by a minimum of an eight foot high solid fence or equal, uninterrupted except for required vehicle access points.
- (b) No materials shall be stored closer than 50 feet to the public right of way or 30 feet to the property lines.
- (c) Site is of adequate size to protect adjacent properties from adverse effects of the junkyard.

5.6.5 Kennels (Class II)

(A) Standards for Class B Special Use Permit

(1) Submittal Requirements –

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) Plans for all kennels, exercise yards, dog runs, pens and related improvements, including signage.
- (b) Site plan showing the improvements listed in a) above, other structures on the same lot, and structures on adjacent property.

(2) Standards of Evaluation –

- (a) The site is of adequate size to protect adjacent properties from adverse effects of the kennel.
- (b) No part of any building, structure, dog run, pen, or exercise yard in which animals are housed or exercised shall be closer than 150 feet from a property line, except property occupied by the owner/operator of the kennel. These minimum distances shall not apply if all portions of the facility, in which animals are housed, are wholly enclosed within a building.

²² Staff is recommending this be removed as it is redundant with requirements of the UDO – all uses must meet the buffer requirements. Calling this out as a separate item for this particular use can cause confusion as to applicability to other uses; this is a remnant of duplicity staff attempted to catch when incorporating the previous zoning ordinance into the UDO but this instance was missed at the time.

- ~~(c) Any kennel, including primary enclosures or runs, which is not wholly enclosed within a building shall be enclosed by a security fence at least six feet in height.~~
- ~~(d) The site plan shows parking, access areas and screening devices for all buildings and animal boarding facilities existing or proposed for the property.~~
- ~~(e) The site plan shall be reviewed by the Orange County Animal Services Department, and found in conformance with the Animal Control Ordinance.~~
- ~~(f) Building plans for all kennel facilities shall be reviewed and approved by the Orange County Animal Services Department prior to issuance of any building permits.~~
- ~~(g) A sign clearly visible from the ground shall be posted at the main entrance to the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with dimensional requirements as set forth within this Ordinance.~~
- ~~(h) A Class II Kennel Permit shall be obtained from Orange County Animal Services within the first 30 days of occupancy. Failure to obtain and maintain a valid Class II Kennel Permit or other related permits which may be required by the USDA or Wildlife Resources Commission will result in revocation of the Special Use Permit.~~

5.6.6 Riding Stables²³

(A) ~~Standards for Class B Special Use Permit~~

~~(1) Submittal Requirements~~

~~In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:~~

- ~~(a) Plans for all barns, boarding facilities, exercise yards, riding arenas, and related improvements, including signage.~~
- ~~(b) Site plan showing the improvements listed in a) above, other structures on the same lot, and structures on adjacent property.~~

~~(2) Standards of Evaluation~~

- ~~(a) The site is of adequate size to protect adjacent properties from adverse effects of the riding stable.~~
- ~~(b) No part of any building, structure, exercise yard, or riding arena, in which animals are housed or exercised shall be closer than 150 feet from a property line, except property occupied by the owner/operator of the facility. These minimum distances shall not apply if all portions of the facility, in which animals are housed, are wholly enclosed within a building.~~
- ~~(c) The site plan shows parking, access areas and screening devices for buildings, riding arenas, and boarding facilities.~~
- ~~(d) A sign clearly visible from the ground shall be posted at the main entrance to the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with dimensional requirements as set forth within this Ordinance.~~

²³ Moved to Section 5.13.16.

5.6.7 Rural Guest Establishment: Bed & Breakfast

(A) General Standards

(1) Submittal Requirements

- (a) A site plan, prepared in accordance with the requirements of Section 2.5, containing the following: (Per Section.2.5.2 professional design and certification is not required for Rural Guest Establishments with three guestrooms or less—bed & breakfasts.)
 - (i) Location, width, and type of all internal vehicular and pedestrian circulation, and parking requirements.
 - (ii) Location and dimensions of all on site signage.
 - (iii) Boundaries of the site.
 - (iv) Location of well and septic system.
- (b) Description of the proposed use(s) of the site and the buildings thereon, including the following:
 - (i) Amount of area allocated to each use.
 - (ii) Number of full and part time employees.
 - (iii) Number of clients and/or occupants expected to use the facility.
 - (iv) Proposed hours of operation for non residential uses of the site and within buildings thereon.
- (c) Building plans for all existing or proposed structures to include floor plans, elevations, and sections showing restoration/rehabilitation proposed.
- (d) Landscape plan, at the same scale as the site plan, showing existing or proposed trees, shrubs, ground cover and other landscape materials. (Landscape information is often shown on the base plan for small projects. Each tree does not have to be individually identified; showing an “existing tree line” is often sufficient for large lots, where the bulk of the property remains wooded.)
- (e) Statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed uses.
- (f) Statement from the appropriate public service agencies concerning the provision of fire, police and rescue protection to the site and structures.
- (g) The proposed development schedule for the site.
- (h) Outdoor events (e.g. weddings, receptions, parties) or similar activities conducted for compensation shall be permitted, only if there is sufficient overflow parking available on site. Overflow parking does not have to be paved or graveled but must be on a suitable (even) surface.
- (i) Any bed & breakfast establishment that is not located on a state maintained road shall furnish a copy of the deed establishing the ingress/egress easement to the Planning Director. Such documentation shall not be limited to the easement deed, but may also include copies of road maintenance agreements as determined by the Planning Director.

- (j) Any application for a bed & breakfast operation that does not include any changes to an existing structure, and therefore does not require a Certificate of Occupancy to begin operations, shall submit documentation from the Fire Marshal and Building Inspections Division that all areas open to the public meet state regulations.
- (k) Applicants requesting a full or partial waiver of the right-of-way land use buffer shall submit evidence that the property is listed on the National Historic Register or recognized by the State of North Carolina or the County of Orange as a place of historic interest. Applications incorporating historic sites shall provide a description of how the historical style and character of the building and/or property is to be enhanced through the project.

(2) Standards of Evaluation

- (a) Proposed uses and facilities are complementary and compatible with surrounding area, and appropriate in the location proposed given character of surrounding development.
- (b) Fire, police and rescue services and water supply and wastewater treatment methods are adequate to serve the proposed uses and facilities.
- (c) Recreational areas, service areas, parking and screening are adequate for the proposed use(s).
- (d) The site is served by direct access to a State maintained road, or has legal access to a public road by way of a recorded easement.
- (e) Internal vehicular and pedestrian circulation is adequate for the proposed use(s).
- (f) The proposed use of the historic structure shall be of such a nature so as to preserve the historic character of the site and the building. Development of the site as proposed would have no adverse impact beyond the building except for appropriate parking facilities. Structural alterations of historic structures shall be of such a nature as to preserve the historic character of the building(s) and site.
- (g) Bed & Breakfast establishments shall be allowed in all protected watersheds, and critical areas.
- (h) Building plans for all building areas intended for public use shall be reviewed and approved by the Fire Marshal and Building Inspections Division prior to issuance of any Certificates of Occupancy.
- (i) In those cases where a Certificate of Occupancy is not required, the applicant shall schedule a site inspection with the Fire Marshal and Building Inspections Division and submit documentation of site approval to the Planning Department prior to commencing operation.
- (j) The applicant shall be permitted to construct one sign not to exceed 16 square feet in size. Such identifying signs shall be installed with landscaping around the base. All illumination shall be installed as ground lighting to prevent night-time glare.
- (k) On-site parking shall be provided in accordance with Section 6.9 of this Ordinance.

- (l) The site shall meet the landscaping and buffer requirements established in Section 6.8 of this Ordinance. However, property recognized by the state or the county as a historic site, or as containing a significant historic structure, shall receive a full or partial waiver of the road-front land use buffer to maintain the historic character of the site and the traditional view of the house from the roadside.
- (m) The applicant shall be responsible for satisfying all review and permitting requirements of other public agencies, including but not limited to NCDOT driveway permits.

5.6.8 Rural Guest Establishment: Bed & Breakfast Inn

(A) Standards for Class B Special Use Permit

(1) Submittal Requirements

- (a) A site plan, prepared by an appropriately licensed professional in accordance with the requirements of Section 2.5, containing the following:
 - (i) Location, width, and type of all internal vehicular and pedestrian circulation, and parking requirements.
 - (ii) Location and dimensions of all on site signage.
 - (iii) Location of well and septic system.
 - (iv) Boundaries of the site and distance to nearest residential structures.
- (b) Description of the proposed use(s) of the site and the buildings thereon, including the following:
 - (i) Amount of area allocated to each use.
 - (ii) Number of full and part time employees.
 - (iii) Number of clients and/or occupants expected to use the facility.
 - (iv) Proposed hours of operation for non residential uses of the site and within buildings thereon.
- (c) Building plans for all existing or proposed structures to include floor plans, elevations, and sections showing restoration/rehabilitation proposed.
- (d) Landscape plan, at the same scale as the site plan, showing existing or proposed trees, shrubs, ground cover and other landscape materials. (Landscape information is often shown on the base plan for small projects. Each tree does not have to be individually identified; showing an "existing tree line" is often sufficient for large lots, where the bulk of the property remains wooded.)
- (e) Statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed uses.
- (f) Statement from the appropriate public service agencies concerning the provision of fire, police and rescue protection to the site and structures.
- (g) The proposed development schedule for the site.
- (h) Outdoor events (e.g. weddings, receptions, parties) or similar activities conducted for compensation shall be permitted, only if there is sufficient overflow parking available on site. Overflow parking does not have to be paved or graveled but must be on a suitable (even) surface.

- (i) Any bed & breakfast inn that is not located on a state maintained road shall furnish a copy of the deed establishing the ingress/egress easement to the County. Such documentation shall not be limited to the easement deed, but may also include copies of road maintenance agreements as determined by the County.
- (j) Any application for a bed & breakfast inn operation that does not include any changes to an existing structure, and therefore does not require a Certificate of Occupancy to begin operations, shall submit documentation from the Fire Marshal and Building Inspections Division that all areas open to the public meet state regulations.
- (k) Applicants requesting a full or partial waiver of the right-of-way land use buffer shall submit evidence that the property is listed on the National Historic Register recognized by the State of North Carolina or the County of Orange as a place of historic interest. Applications incorporating historic sites shall provide a description of how the historical style and character of the building and/or property is to be enhanced through the project.

(2) Standards of Evaluation

- (a) Proposed uses and facilities are complementary and compatible with surrounding area, and appropriate in the location proposed given character of surrounding development.
- (b) Fire, police and rescue services and water supply and wastewater treatment methods are adequate to serve the proposed uses and facilities.
- (c) Recreational areas, service areas, parking and screening are adequate for the proposed use(s).
- (d) The site is served by direct access to a State maintained road.
- (e) Internal vehicular and pedestrian circulation is adequate for the proposed use(s).
- (f) The proposed use of the historic structure shall be of such a nature so as to preserve the historic character of the site and the building. Development of the site as proposed would have no adverse impact beyond the building except for appropriate parking facilities. Structural alterations of historic structures shall be of such a nature as to preserve the historic character of the building(s) and site.
- (g) Bed & Breakfast Inns shall be considered commercial operations and therefore may not be allowed in all protected watersheds, and critical areas.
- (h) Building plans for all building areas intended for public use shall be reviewed and approved by the Fire Marshal and Building Inspections Division prior to issuance of any Certificates of Occupancy.
- (i) In those cases where a Certificate of Occupancy is not required, the applicant shall schedule a site inspection with the Fire Marshal and Building Inspections Division and submit documentation of site approval to the Planning Department prior to commencing operation.
- (j) The applicant shall be permitted to construct one sign not to exceed 16 square feet in size. Such identifying signs shall be installed with landscaping around the base. All illumination shall be installed as ground lighting to prevent night-time glare.
- (k) On-site parking shall be provided in accordance with Sections 6.9 of this Ordinance.

- (l) The site shall meet the landscaping and buffer requirements established in Section 6.8 of this Ordinance. However, property recognized by the state or the county as a historic site, or as containing a significant historic structure, shall receive a full or partial waiver of the road-front land use buffer to maintain the historic character of the site and the traditional view of the house from the roadside.
- (m) The applicant shall be responsible for satisfying all review and permitting requirements of other public agencies, including but not limited to NCDOT driveway permits.
- (n) The minimum lot size for a Bed & Breakfast Inn using a private well and septic system shall be no less than five acres. A Bed & Breakfast Inn may be permitted on lots of less than five acres if the tract is currently served by public water and sewer, subject to the review and approval of the appropriate agencies and the Staff Engineer.

(3) Expiration and Re-Approval of SUP

- (a) The Class B Special Use Permit, if approved, shall be valid for six years, but may be renewed or re-approved by the Board of Adjustment after receiving a report from the Planning Department that the use is, and has been continuously since it was issued, in compliance with provisions of the Special Use Permit.
- (b) The Orange County Planning Department shall present its report on the compliance of the special use no later than 90 days before the expiration of the Special Use Permit.
- (c) The Board of Adjustment shall not renew the Special Use Permit if it is determined that the applicant has failed to comply with the conditions of approval.
- (d) If the Board of Adjustment does not renew the permit, the permit shall become null and void upon the expiration of the time limit.
- (e) If the Special Use Permit is not renewed or re-approved, then the applicant may submit a new application as if it were a new use.

5.6.9 Rural Guest Establishment: Country Inn

(A) Standards for Class A Special Use Permit

(1) Submittal Requirements

- (a) A site plan, prepared by an appropriately licensed professional in accordance with the requirements of Section 2.5, containing the following:
 - (i) Location, width, and type of all internal vehicular and pedestrian circulation, and parking requirements.
 - (ii) Location and dimensions of all on site signage.
 - (iii) Location of well and septic system.
 - (iv) Boundaries of the site and distance to nearest residential structures.
- (b) Description of the proposed use(s) of the site and the buildings thereon, including the following:
 - (i) Amount of area allocated to each use.
 - (ii) Number of full and part time employees.
 - (iii) Number of clients and/or occupants expected to use the facility.

- (iv) Proposed hours of operation for non residential uses of the site and within buildings thereon.
- (c) Building plans for all existing or proposed structures to include floor plans, elevations, and sections showing restoration/rehabilitation proposed.
- (d) Landscape plan, at the same scale as the site plan, showing existing or proposed trees, shrubs, ground cover and other landscape materials. (Landscape information is often shown on the base plan for small projects. Each tree does not have to be individually identified; showing an “existing tree line” is often sufficient for large lots, where the bulk of the property remains wooded.)
- (e) Statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed uses.
- (f) Statement from the appropriate public service agencies concerning the provision of fire, police and rescue protection to the site and structures.
- (g) The proposed development schedule for the site.
- (h) Outdoor events (e.g. weddings, receptions, parties) or similar activities conducted for compensation shall be permitted, only if there is sufficient overflow parking available on site. Overflow parking does not have to be paved or graveled but must be on a suitable (even) surface.
- (i) Any application for a Country Inn that does not include any changes to an existing structure, and therefore does not require a Certificate of Occupancy to begin operations, shall submit documentation from the Fire Marshal and Building Inspections Division that all areas open to the public meet state regulations.
- (j) Applicants requesting a full or partial waiver of the right-of-way land use buffer shall submit evidence that the property is listed on the National Historic Register recognized by the State of North Carolina or the County of Orange as a place of historic interest. Applications incorporating historic sites shall provide a description of how the historical style and character of the building and/or property is to be enhanced through the project.

(2) Standards of Evaluation

- (a) Proposed uses and facilities are complementary and compatible with surrounding area, and appropriate in the location proposed given character of surrounding development.
- (b) Fire, police and rescue services and water supply and wastewater treatment methods are adequate to serve the proposed uses and facilities.
- (c) Recreational areas, service areas, parking and screening are adequate for the proposed use(s).
- (d) The site is served by direct access to a State maintained road.
- (e) Internal vehicular and pedestrian circulation is adequate for the proposed use(s).

- (f) The proposed use of the historic structure shall be of such a nature so as to preserve the historic character of the site and the building. Development of the site as proposed would have no adverse impact beyond the building except for appropriate parking facilities. Structural alterations of historic structures shall be of such a nature as to preserve the historic character of the building(s) and site.
- (g) Country Inns shall be considered commercial operations and therefore may not be allowed in all protected watersheds, an critical areas.
- (h) Building plans for all building areas intended for public use shall be reviewed and approved by the Health Department, Fire Marshal, and Building Inspections Division prior to issuance of any Certificates of Occupancy.
- (i) In those cases where a Certificate of Occupancy is not required, the applicant shall schedule a site inspection with the Fire Marshal and Building Inspections Division and submit documentation of site approval to the Planning Department prior to commencing operation.
- (j) The applicant shall be permitted to construct one sign not to exceed 16 square feet in size. Such identifying signs shall be installed with landscaping around the base. All illumination shall be installed as ground lighting to prevent night-time glare.
- (k) On-site parking shall be provided in accordance with Section 6.9 of this Ordinance. The Fire Marshal shall review and approve the site plan to ensure EMS and fire truck accessibility.
- (l) The site shall meet the landscaping and buffer requirements established in Section 6.8 of this Ordinance. However, property recognized by the state or the county as a historic site, or as containing a significant historic structure, shall receive a full or partial waiver of the road-front land use buffer to maintain the historic character of the site and the traditional view of the house from the roadside.
- (m) The applicant shall be responsible for satisfying all review and permitting requirements of other public agencies, including but not limited to NCDOT driveway permits.
- (n) The minimum lot size for a Country Inn using a private well and septic system shall be no less than ten acres. A Country Inn may be permitted on lots of less than ten acres if the tract is currently served by public water and sewer subject to the review and approval of the appropriate agencies, and the Staff Engineer; or if the tract will receive public services as part of a larger development project such as a planned development or village flexible development.

(3) Expiration and Re-Approval of SUP

- (a) The Class A Special Use Permit, if approved, shall be valid for six years, but may be renewed or re-approved by the Board of County Commissioners after receiving a report from the Planning Department that the use is, and has been continuously since it was issued, in compliance with provisions of the Special Use Permit.
- (b) The Orange County Planning Department shall present its report on the compliance of the special use no later than 90 days before the expiration of the Special Use Permit.
- (c) The Board of County Commissioners shall not renew the Special Use Permit if it is determined that the applicant has failed to comply with the conditions of approval.

- (d) If the Board of County Commissioners does not renew the permit, the permit shall become null and void upon the expiration of the time limit.
- (e) If the Special Use Permit is not renewed or re-approved, then the applicant may submit a new application as if it were a new use.

5.6.10 Microbrewery with Minor Events

(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning Districts

- (1) In addition to the requirements in Section 2.7 or 2.9, as applicable, the following information shall be submitted with the application materials:
 - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
 - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
 - (c) A map depicting surrounding uses and the distance to residential structures.
 - (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Events shall be limited to no more than 150 people at one time and shall occur no more than 12 days per year.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) Retail sales and facility tours are intended to be minor components of the overall use as a microbrewery that produces craft malt beverages. Retail sales may include complementary items but are intended to be comprised primarily of products produced on-site. The permit may specify limits to these activities.

5.6.11 Microbrewery with Major Events

(A) Standards for ASE-CZ or MPD-CZ Zoning Districts

- (1) (1) In addition to the requirements in Section 2.9, the following information shall be submitted with the application materials:
 - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
 - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
 - (c) A map depicting surrounding uses and the distance to residential structures.

- (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Major events may attract more than 150 people at one time and may occur more frequently than twelve times per year.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) The permit may limit the frequency of events.
- (9) Retail sales are intended to be comprised primarily of products produced on-site but may include complementary items.

5.6.12 Taxidermy

(A) Standards for Class B Special Use Permit

- (1) Enterprises located in an AR (Agricultural Residential) zoning district must be located on a bona fide farm.
- (2) If located adjacent to residentially zoned property, all buildings, structures, facilities, etc. used in the taxidermy enterprise shall be located a minimum of 100 feet from the property line.

5.6.13 Winery with Minor Events

(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning Districts

- (1) In addition to the requirements in Section 2.7 or 2.9, as applicable, the following information shall be submitted with the application materials:
 - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
 - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
 - (c) A map depicting surrounding uses and the distance to residential structures.
 - (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Events shall be limited to no more than 150 people at one time and shall occur no more than 12 days per year.

- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) Retail sales and facility tours are intended to be minor components of the overall use as a microbrewery that produces craft malt beverages. Retail sales may include complementary items but are intended to be comprised primarily of products produced on-site. The permit may specify limits to these activities.

5.6.14 Winery with Major Events

(A) Standards for ASE-CZ or MPD-CZ Zoning Districts

- (1) In addition to the requirements in Section 2.9, the following information shall be submitted with the application materials:
 - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
 - (b) Location of overflow parking area(s) if required parking is not anticipated to accommodate all special events.
 - (c) A map depicting surrounding uses and the distance to residential structures.
 - (d) A description of retail sales and facility tours, if proposed.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Major events may attract more than 150 people at one time and may occur more frequently than twelve times per year.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (7) Food services are not allowed unless approved in the permit.
- (8) The permit may limit the frequency of events.
- (9) Retail sales are intended to be comprised primarily of products produced on-site but may include complementary items.

SECTION 5.7: STANDARDS FOR RECREATIONAL USES

~~5.7.1 Recreational Facilities~~

~~(A) General Standards of Evaluation~~

- ~~(1) The standards included herein shall be applied to the following for-profit recreational facilities:

 - ~~(a) Tennis clubs,~~~~

To accomplish this goal, the owners/managers have the option of employing, either singly or in combination, any of the following:

- (1) Requiring all competition vehicles to have functional noise mufflers attached at all times;
- (2) Installing a system of noise baffles, berms, or walls on the perimeter of the racetrack facility incorporated into the design and placement of any lighting system and viewing stands, and/or
- (3) Depressing the elevation of the raceway track surface, or
- (4) Some other innovative noise abatement system.
- (L) Limits on racing activities shall be such that no race shall extend beyond 11:00 p.m. on Friday and Saturday nights, or beyond 9:00 p.m. on other evenings. Practice activities shall not commence before 10:00 a.m. on any day and shall cease by 9:00 p.m.
- (M) All external lighting fixtures shall comply with Orange County lighting standards (Section 6.11).
- (N) No storage of hazardous materials shall be permitted, except for racing fuel and lubricants. Such material storage areas shall be enclosed and posted and the Orange County Fire Marshal shall approve a pollution incident prevention plan for the storage facility prior to final occupancy permits.
- (O) If additional or accessory land uses are desired, the facility owner shall cause a new site plan to be created outlining the location and nature of the proposed new land use, demonstrating compliance with this Ordinance.
- (P) The County shall approve a construction schedule to complete the items listed above.

5.7.6 Guest Ranch

(A) Standards for ASE-CZ Zoning District

- (1) Minimum lot size: 25 acres.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) All structures, facilities, storage areas, and parking areas shall be located a minimum of 100 feet from all property lines.
- (4) Special events are not allowed unless approved in the permit and may be limited in duration, frequency, number of people in attendance, or other aspects.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

SECTION 5.8: STANDARDS FOR CHILDCARE & EDUCATIONAL FACILITIES

5.8.1 Daycare Center in a Residence

(A) Submittal Requirements

- (1) In addition to the information required by Section 2.4.3, the plot plan shall show the following:
 - (a) The location of the residence in which the Daycare Center in a Residence is to be located in relation to existing property lines and adjacent homes;

- (k) The Operations Plan and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with extraction.
- (l) No land disturbance shall take place within 250 feet of the zoning lot line or the property line where the zoning line and the property line are one and the same. Within the 250 foot setback area, existing vegetation shall be retained for the purpose of providing a visual screen and noise buffer. No disturbance or removal of vegetation shall be permitted except for access roads leading from the excavation area to public roads. Where vegetation within the 250 foot setback does not exist, the applicant shall be required to provide a dense, evergreen buffer consistent with the purpose cited above. The buffer shall be in place prior to the initiation of any excavation activities.
- (m) The applicant shall submit operational reports, prepared on an annual basis, detailing the amounts of materials extracted, extent of extractive area, depth of extractive area, and results of groundwater test borings.
- (n) Annual inspections of the operation shall be conducted by the Planning Director following submittal of the annual operations reports to determine compliance with the provisions of the Special Use Permit.
- (o) In cases of abandonment or termination of operations for a period of 12 consecutive months, application for a new Special Use Permit is required.
- (p) The Board of County Commissioners shall require for all extractive uses a performance guarantee to insure that the provisions of the Rehabilitation Plan are met. Such performance guarantee shall be in a form approved by the County Attorney. The amount of such guarantee shall cover the cost of rehabilitation on a per acre basis, if the cost does not exceed the amount posted with the State. If the rehabilitation cost exceeds the amounts required by the State then the difference shall be made up in a bond to Orange County.

SECTION 5.13: STANDARDS FOR AGRICULTURAL USES

5.13.1 Commercial Feeder Operation²⁴

(A) General Standards

Property to be utilized for poultry raising, cattle feeding, hog feeding, or other similar uses that are not a part of a bona fide farm may be established in accordance with the Table of Permitted Uses subject to the following conditions:

- (1) All structures, buildings or enclosed areas, used for housing of poultry, hogs, cattle or other livestock, shall be a minimum of 100 feet from all property lines.
- (2) No structures, buildings or enclosed areas, housing poultry, hogs, cattle or other livestock shall be less than 120 feet from any residence.
- (3) Care shall be exercised that odor is kept to a minimum level through frequent cleaning of the area.

²⁴ This is a bona fide agricultural use and cannot be regulated by zoning so staff is suggesting it be removed from the UDO.

- ~~(4) Prior to making this exception, the applicant shall receive from the Orange County Health Department a letter stating that the applicant has reviewed the Health Department's requirements for operation of a feeder type facility and understands the health requirements that must be met. Any violation of a Health Department regulation shall be considered a violation of this Ordinance.~~

5.13.2 Agricultural Processing Facility

(A) General Standards for Evaluation

- (1) If located adjacent to residentially zoned property, all buildings and outdoor storage areas shall be located a minimum of 100 feet from the property line.
- (2) Outdoor storage areas shall be screened from the view of any adjacent residentially zoned property.

5.13.3 Agricultural Processing Facility, Community

(A) General Standards for Evaluation

- (1) If located in an RB or AR zoning district, facility shall be located on the bona fide farm of one of the cooperative farm partners or must be permitted as an ASE-CZ.
- (2) The building shall not exceed 10,000 square feet in size.
- (3) If located adjacent to residentially zoned property, all buildings and outdoor storage areas shall be located a minimum of 100 feet from the property line.
- (4) Outdoor storage areas shall be screened from the view of any adjacent residentially zoned property.

5.13.4 Cold Storage Facility

(A) General Standards for Evaluation

- (1) If located adjacent to residentially zoned property, all buildings and outdoor storage areas shall be located a minimum of 100 feet from the property line.
- (2) Outdoor storage areas shall be screened from the view of any adjacent residentially zoned property.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.

5.13.5 Community Farmers' Market

(A) General Standards for Evaluation

- (1) The minimum lot size shall be 3 acres unless permitted as an ASE-CZ.
- (2) If located adjacent to residentially zoned property, all buildings and vendor areas shall be located a minimum of 100 feet from the property line.

5.13.6 Composting Operation

(A) General Standards for Evaluation

- (1) The minimum lot size shall be 10 acres unless permitted as an ASE-CZ.
- (2) All operations shall be located a minimum of 150 feet from all property lines.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (4) Outdoor storage areas shall be screened from view of adjacent properties and the road right-of-way.

- (5) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- (6) Compost piles shall not exceed 15 feet in height.
- (7) Operations that include grinding shall adhere to the following:
 - (a) Grinding shall be permitted only during the hours of 7 a.m. and 7 p.m., or as otherwise specified on the permit.
 - (b) Grinding area shall be located a minimum of 1,000 feet from any existing dwelling unit located on adjacent properties.
 - (c) Grinding area shall be located a minimum of 300 feet from all property lines.

5.13.7 Cooperative Farm Stand

(A) General Standards for Evaluation

- (1) If located in an RB or AR zoning district, stand shall be located on the bona fide farm of one of the cooperative farm partners.
- (2) In addition to the application materials required in Sections 2.5.2 and 2.4.3, the following shall also be required:
 - (a) The number and location of participating cooperative farm partners.
 - (b) A description of the facility, including size of structure(s) and access locations.
 - (c) Number of employees, if any.
 - (d) Frequency and hours of operation.
- (3) Sales of any products not produced on the farm(s) of one of the cooperative farm partners shall be incidental, related to, and a subordinate component of farm stand sales in scale and profit.

5.13.8 Equestrian Center

(A) Standards for Class A Special Use Permit or ASE-CZ Zoning District

- (1) Minimum lot size: 15 acres.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) All structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Parking area(s) shall include sufficient space for parking and maneuvering trucks and horse trailers.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

5.13.9 Farm Equipment Rental, Sales and Service

(A) General Standards for Evaluation

- (1) Outdoor display and storage of equipment shall be permitted in the side and rear yards of the primary structure and shall be screened from view of adjacent properties.
- (2) Service bays shall be located at the side or rear of a structure and shall not be visible from adjacent residential property or the road right-of-way.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (4) Parking shall not be located in the front yard space.

5.13.10 Farm Supply Store

(A) General Standards for Evaluation

- (1) Outdoor storage of products shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.
- (2) Outdoor storage areas shall not be permitted to encroach upon required parking spaces.
- (3) All structures and outdoor storage areas shall be located a minimum of 100 feet from adjacent residentially zoned property.
- (4) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (5) Parking shall not be located in the front yard space.

5.13.11 Feed Mill

(A) General Standards for Evaluation

- (1) The minimum lot size shall be 3 acres, unless permitted as an ASE-CZ.
- (2) All structures, equipment, and outdoor storage areas shall be located a minimum of 100 feet from all property lines.
- (3) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (4) Outdoor storage shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.

5.13.12 Greenhouses with On Premise Sales

(A) General Standards for Evaluation

- (1) If located in an AR (Agricultural Residential) zoning district, the minimum lot size shall be 3 acres, unless permitted as an ASE-CZ.
- (2) If located in an AR (Agricultural Residential) zoning district, outdoor storage shall be located in the side or rear yards and shall be setback a minimum of 100 feet from the property line.

5.13.13 Meat Processing Facility, Community

(A) General Standards for Evaluation

- (1) If located in an RB or AR zoning district, facility shall be located on the bona fide farm of one of the cooperative farm partners.
- (2) The building shall not exceed 10,000 square feet in size.
- (3) If located adjacent to residentially zoned property, all buildings, outdoor storage areas, and animal pens shall be located a minimum of 100 feet from the property

line.

- (4) Outdoor storage of products shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.
- (5) In addition to the application materials required in Section x.x.xx, the following shall also be required:
 - (a) The number of location of participating cooperative farm partners.
 - (b) Number of employees, if any.
 - (c) Frequency and hours of operation.

5.13.14 Meat Processing Facility, Regional

(A) Standards for Class A Special Use Permit or ASE-CZ Zoning District

- (1) The minimum lot size shall be 15 acres.
- (2) If located adjacent to residentially zoned property, all buildings, outdoor storage areas, and animal pens shall be located a minimum of 300 feet from the property line.
- (3) Outdoor storage of products shall be permitted in the rear yard of the primary structure and shall be screened from view of adjacent properties.
- (4) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (5) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

5.13.15 Non-Farm Use of Farm Equipment

(A) General Standards for Evaluation

- (1) Use shall be located on a bona fide farm.
- (2) Equipment shall be screened from view from adjacent properties and road(s).
- (3) Outdoor storage of materials such as gravel, dirt, or plants shall be limited in both area and duration.
- (4) On-site retail sales shall not be permitted.

5.13.16 ~~Riding Stables~~, Commercial²⁵

(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning Districts

(1) Submittal Requirements –

In addition to the information required by Sections 2.7 or 2.9, as applicable, the following information shall be supplied as part of the application for approval of this use:

- (a) Plans for all barns, boarding facilities, exercise yards, riding arenas, and related improvements, including signage.
- (b) Site plan showing the improvements listed in a) above, other structures on the same lot, and structures on adjacent property.

(2) Standards of Evaluation –

²⁵ Language shown in black text (existing) is proposed to be moved from existing Section 5.6.6.

- (a) ~~The site is of adequate size to protect adjacent properties from adverse effects of the riding stable.~~ Minimum lot size: 5 acres for up to 10 horses, increasing by ½ acre for each horse over 10.
- (b) No part of any building, structure, exercise yard, or riding arena, in which animals are housed or exercised shall be closer than 150 feet from a property line, except property occupied by the owner/operator of the facility. These minimum distances shall not apply if all portions of the facility, in which animals are housed, are wholly enclosed within a building.
- (c) The site plan shows parking, access areas and screening devices for buildings, riding arenas, and boarding facilities.
- (d) A sign clearly visible from the ground shall be posted at the main entrance to the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with dimensional requirements as set forth within this Ordinance.

5.13.17 Stockyards / Livestock Markets

(A) General Standards for Evaluation

- (1) The minimum lot size shall be 10 acres.
- (2) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.
- (3) All structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.
- (4) Parking area(s) shall include sufficient space for parking and maneuvering trucks and stock trailers.
- (5) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (6) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
- (7) If located adjacent to residentially zoned property, all animal pens shall be located a minimum of 300 feet from the property line.

SECTION 5.14: STANDARDS FOR MANUFACTURING, ASSEMBLY & PROCESSING

5.14.1 Metal Fabrication Shop

(A) Standards for ASE-CZ Zoning District

- (1) Facility must be located on a bona fide farm.
- (2) Minimum lot size: 3 acres.
- (3) Maximum building size: 3,000 square feet.
- (4) If located adjacent to residentially zoned property, all buildings and operations must be located a minimum of 200 feet from the property line.

5.14.2 Microbrewery, production only

(A) Standards for Class B Special Use Permit or ASE-CZ Zoning District

- (1) If located in the RB and AR zoning districts, the microbrewery must be located on a bona fide farm.
 - (a) A microbrewery, production only, that is located on a bona fide farm, and which utilizes primarily crops produced on-site is considered a bona fide farming use and is not subject to zoning regulations.
 - (b) A microbrewery, production only, that does not utilize primarily crops produced on-site, regardless of whether it is located on a bona fide farm, is not considered a bona fide farming use and is subject to the regulations contained in this Ordinance.
- (2) If located adjacent to residentially zoned property, all buildings shall be located a minimum of 100 feet from the property line.

5.14.3 Sawmills

(A) General Standards for Evaluation and ASE-CZ Zoning District

- (1) Minimum lot size: 5 acres.
- (2) All structures, equipment, and storage shall be located a minimum of 100 feet from the property line.
- (3) Hours of operation shall be limited to the hours between 7 a.m. and 7 p.m.
- (4) Site shall have direct access to major road, as classified in the Orange County Comprehensive Plan, and shall use said road as the primary access, unless approved otherwise in the permit.

5.14.4 Winery, production only

(A) Standards for Class B Special Use Permit or ASE-CZ Zoning District

- (1) If located in the RB and AR zoning districts, the winery must be located on a bona fide farm.
 - (a) A winery, production only, that is located on a bona fide farm, and which utilizes primarily crops produced on-site is considered a bona fide farming use and is not subject to zoning regulations.
 - (b) A winery, production only, that does not utilize primarily crops produced on-site, regardless of whether it is located on a bona fide farm, is not considered a bona fide farming use and is subject to the regulations contained in this Ordinance.
- (2) If located adjacent to residentially zoned property, all buildings shall be located a minimum of 100 feet from the property line.

SECTION 5.15: STANDARDS FOR AUTOMOTIVE/TRANSPORTATION RELATED USES

5.15.1 Motor Vehicle Sales / Rental (New & Used) in the NC-2 Zoning District

(A) Standards for the NC-2 Zoning District

- (1) This use shall only be permitted within the Commercial Transition Activity or Commercial-Industrial Transition Activity Node land use classifications, as designated on the Land Use Element Map of the adopted Comprehensive Plan.
- (2) The site shall have direct access onto a State maintained roadway.
- (3) A maximum of 12 cars may be stored or displayed on-site.

SECTION 5.16: STANDARDS FOR MEDICAL USES

5.16.1 Veterinary Clinic

(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning District

- (1) In the AR zoning district, this use is intended primarily for large animal facilities but may also contain an ancillary small animal component.
- (2) If located adjacent to residentially zoned property, all buildings and facilities shall be located a minimum of 100 feet from the property line.

5.16.2 Veterinary Clinic, mobile

(A) Standards for Class B Special Use Permit or ASE-CZ or MPD-CZ Zoning District

- (1) In the AR and R-1 zoning districts, this use is intended to be located on the same property as the operator's residence. The mobile clinic shall be parked to the side or rear of the residence, not in front of the residence, unless permitted otherwise in the permit.
- (2) For all zoning districts in which this use is permitted, observation shelters for up to three large or small animals shall be considered an accessory use. The permit may specify a greater number of observation shelters and may limit the maximum number of days an individual animal may be observed.
- (3) If adjacent to residentially zoned property, all mobile clinic operations shall be located a minimum of 100 feet from the property line.
- (4) Veterinary services whereby the public brings their animal to the mobile clinic location shall not be permitted, unless specifically permitted in the permit.

5.16.3 Veterinary Hospital

(A) Standards for ASE-CZ Zoning District

- (1) In the ASE-CZ zoning district, this use is intended primarily for large animal facilities but may also contain an ancillary small animal component.
- (2) If located adjacent to residentially zoned property, all buildings and facilities shall be located a minimum of 100 feet from the property line.

SECTION 5.17: STANDARDS FOR MISCELLANEOUS USES

5.17.1 Churches

(A) General Standards

- (1) Churches are required to provide setbacks in residential districts; the minimum shall be as follows:

TABLE 5.14.1.A: CHURCH SETBACK STANDARDS IN RESIDENTIAL DISTRICTS	
SETBACK	DISTANCE (FEET)
Front	45
Side	50
Rear	50

5.17.2 Community Center

(A) Standards for Class B Special Use Permit

- (i) Habitat Maintenance
 - (i) Habitats identified in the biological inventory and habitats created through mitigation shall be maintained in accordance with the Resources Management Plan and/or a conservation easement agreement; and
 - (ii) Maintenance of habitats shall be minimal, consisting primarily of maintaining buffers and enhancements, removal of exotic (non-native) plant species, and keeping drainage ways functioning properly.
- (j) Access

Access to the subdivision and access to lots within the subdivision to existing public roads shall conform to and be in compliance with any public road access management plan adopted by Orange County.
- (k) Maintenance of Improvements
 - (i) All site improvements such as roads, utilities (including irrigation and drainage structures), habitat enhancements, recreational amenities, signage, landscaping, open space, etc. will be maintained in function and appearance.
 - (ii) Maintenance specifications, if any, for on-going site management (including provisions for handling of storm debris in open space areas) shall be submitted as part of the Resources Management Plan and incorporated into Homeowners' Association documents.

5.17.7 Rural Heritage Museum

(A) Standards for Class B Special Use Permit or ASE-CZ Zoning District

- (1) If located adjacent to residentially zoned property, all buildings, facilities, and parking areas shall be located a minimum of 100 feet from the property line.
- (2) The maximum building size in the RB or AR zoning districts shall be 5,000 square feet.

5.17.8 Rural Special Events

(A) General Standards for Evaluation or ASE-CZ or MPD-CZ Zoning Districts

- (1) Must be located on a bona fide farm.
- (2) In addition to the requirements in Section 2.5 or 2.9, as applicable, the following information shall be submitted with the application materials:
 - (a) Description of special events to be held on-site, including frequency of events, hours of operation, anticipated attendance, and any other pertinent details.
 - (b) Location of parking area(s).
 - (c) A map depicting surrounding uses and the distance to residential structures.
- (3) The temporary or seasonal commercial activities that comprise the special event must pertain to agricultural or rural-related activities.
- (4) If located adjacent to residentially zoned property, all structures, facilities, storage areas, and parking areas shall be setback a minimum of 100 feet from all property lines.

- (5) Events permitted by right in the RB, AR, and AS zoning districts shall be limited to no more than 150 people at one time and shall occur no more than 12 days per year. Events exceeding these limits must be approved as an ASE-CZ or MPD-CZ.
- (6) Loudspeakers and public address systems shall not be used before 7 a.m. or after 7 p.m. if an existing residence is located within 1,000 feet of the facility, unless approved otherwise in the permit.
- (7) Special events shall cease no later than 9 p.m. on Sunday through Thursday or 11 p.m. on Friday and Saturday, unless approved otherwise in the permit.
- (8) Food services are not allowed unless approved in the permit.
- (9) Documentation shall be submitted from the Fire Marshal and Building Inspections Department stating that all areas open to the public meet state regulations.

- (1) Minimum lot area, lot width, and setback requirements as specified in Article 3 of this Ordinance may be reduced for lots created as part of a Flexible Development subdivision as provided in Section 7.13 of this Ordinance.

(C) Flag Lots

- (1) Flag lots as defined in Article 10 are accommodated for as provided in Section 7.7 of this Ordinance.

6.2.3 Clustering

(A) UNIV-CA & UNIV – PW Watershed Protection Overlay Districts

- (1) Clustering of residential lots is permitted in accordance with Section 7.12 of this Ordinance.
- (2) Each lot shall contain a minimum of one acre.

(B) All Other Overlay Districts

Clustering of residential lots is permitted in accordance with Section 7.13 of this Ordinance.

6.2.4 Irregular Lots

Any irregular lot of record at the time these regulations became effective may be subdivided in compliance with applicable subdivision regulations and improvement requirements, to create additional regular lots, provided that such lots meet all requirements of the district and that no residual substandard lots remain as a result of such action.

6.2.5 Principal Uses

There shall be no more than one principal use on any zoning lot except where:

- (A) Permitted as a CU District or CZ District; or
- (B) The parcel is located within an Economic Development District, Commercial Transition Activity Node, Commercial-Industrial Transition Activity Node, Rural Neighborhood Activity Node, or Rural Community Activity Node, as designated by the Comprehensive Plan; or
- (C) The parcel is less than 2 acres in size, and non-residential multiple uses are proposed within a single principal structure; or
- (D) One of the uses is an unstaffed telecommunications tower subject to a year-to-year or other short term lease; or
- (E) The use(s) is/are marked with ^ in the Table of Permitted Uses (Section 5.2.1) and is/are located on a bona fide farm.

6.2.6 Principal Structures

(A) Residential

- (1) There shall be no more than one principal structure permitted on any residential zoning lot, with the exception of the following:
 - (a) Multi-family developments which have received approval as a CU District or CZ District, or
 - (b) Temporary use of mobile homes for custodial care approved in accordance with the provisions of Section 5.4.4(B), or
 - (c) During the installation or construction of a permanent unit on the same lot, as provided in Section 5.4.4 of this Ordinance, or

- (d) Duplexes, on lots that have twice the required lot area of the zoning district.

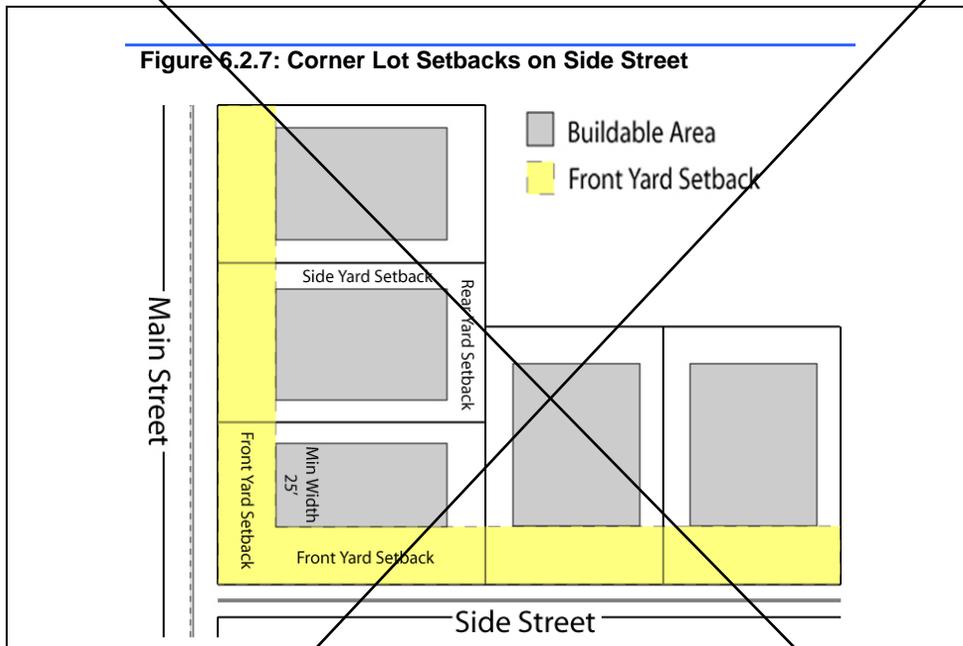
(B) Non-Residential

(1) There shall be no more than one principal structure permitted by right on any non-residential zoning lot greater than two acres in size, unless:

- (a) ~~p~~Permitted as a CU District or CZ District, or
- (b) ~~t~~The zoning lot is located within an Economic Development District, Commercial Transition Activity Node, Commercial-Industrial Transition Activity Node, Rural Neighborhood Activity Node, or Rural Community Activity Node, as designated by the Comprehensive Plan; or
- (c) The structure(s) is/are located on a bona fide farm and is/are utilized for a use(s) that is/are marked with ^ in the Table of Permitted Uses (Section 5.2.1).

6.2.7 Corner Lot Setback on the Side Street

Any corner lot of record in a residential zoning district abutting a side street shall meet the minimum required setbacks of the zoning district in which it is located; provided, however, that this requirement does not reduce the width of area suitable for building to less than 25 feet.



6.2.8 Additional Setbacks Required in for Non-Residential Lots Abutting Residential Zoning Districts

In all non-residential zoning districts, except I-1, I-2, I-3, and EI, required side and rear setbacks adjacent to residentially zoned land, shall be equal to the required side or rear setback of the adjacent residential district.

6.2.9 Permitted Projections Into Required Open Space

- (A) Certain architectural features, such as cornices, eaves and gutters, may project into the required open space as follows:

The following general provisions are applicable to MPD-CZ applications and each permitted use, special use, accessory use, and conditional use in Economic Development Districts:

- (1) All uses and activities must provide secure, safe, and sanitary facilities for the storage and pickup of solid waste and recyclables. Such facilities must be convenient to collection and must be appropriate to the type and size of use or activity being served.
- (2) All solid waste and recyclables storage facilities must be screened in accordance with Sections 6.4 and 6.8. of this Ordinance.
- (3) All uses and activities must remove recyclable materials from the solid waste generated and make them available for recycling. Recyclable materials, consisting of glass, metal cans, plastic containers, corrugated cardboard and white office paper, newspapers, and motor oil, must not be mixed with or disposed of with other solid waste.
- (4) All uses and activities shall remove or cause to be removed all solid wastes from the site or property before harborage of such waste creates a health hazard.
- (5) Each Master Plan and site plan must be accompanied by Solid Waste Management Plan, including a recycling plan and a plan for the management of construction and land clearing debris. The recycling plan must provide information regarding the type and quantity of recyclable materials generated each month, and the facilities to be provided for collection and storage. Management plans for construction and land clearing debris must identify the type and quantity of debris as well as its disposal location.

6.4.10 Service & Outdoor Storage

(A) General Standards

- (1) Building service and loading areas must be conveniently located and accessible for normal service and maintenance needs, including the provision of adequate turning radii and parking areas for service vehicles. Such areas are to be located at the side or rear of the principal building(s), and designed so that all service and loading operations occur within the confines of the building site.
- (2) Outdoor storage shall be located only to the side and rear of a building. No outdoor storage is permitted to the front of a building.
- (3) If located adjacent to residentially zoned property, outside storage areas shall be screened from view of the residentially zoned property and shall be located a minimum of 100 feet from the property line.²⁶

(B) Additional Standards in Economic Development Districts

- (1) Exterior storage for materials, supplies, and equipment may only be located at the side or rear of a building and only in totally enclosed screened areas. Exterior storage areas must never be located to the front of any building unless screened from view through the use of fencing, walls and/or landscaping, in accordance with Section 6.8 of this Ordinance.

²⁶ While not only related to ASE uses, staff is suggesting the language regarding outdoor storage be included at this time because it is a direction Orange County has been going for several years in regards to outdoor storage areas. Staff is specifically noting that including the language in this section will make it apply in all commercial, industrial, economic development, and conditional districts (See 6.4.1(B)). If not included as part of this amendment package, additional standards (Article 5) may need to be added for some uses.

- ~~(2) The Planning Director may conduct inspections to monitor the health and status of the required landscaping.~~

6.8.6 Land Use Buffers

(A) Purpose

Land use buffers are intended to screen and buffer lower intensity/density uses from incompatible higher intensity/density land uses. Buffers reduce adverse visual effects, as well as noise, dust, and odor.

(B) Applicability

Land use buffers will be required based on the zoning district of the proposed use and the zoning district of the adjacent uses.

(C) Location

(1) Required land use buffers shall be located along the interior or street lot lines nearest the adjacent streets, land uses and/or zoning designations. Buffers shall not be located on any portion of an existing or proposed street right of way, drainage or utility easement.

(2) No building or structure of any type shall be erected, constructed or installed in a required land use buffer.

(D) Land Use Buffer Table

TABLE 6.8.6.D: LAND USE BUFFERS													
		ZONING OR USE OF ADJACENT PROPERTIES											
		RB, AR, RI	R-2, R-3	R-4, R-5	R-8, R-13	MHP-CZ	O/I, NC-2, LC-1	CC-3, GC-4, EC-5	EI, I-1, I-2, I-3, PID	INTERSTATE HIGHWAY	ARTERIAL STREET	COLLECTOR STREET	ACTIVE FARM/ AGRICULTURE
Zoning or Use of Subject Property	RB, AR, R1	-	A	A	B	F	E	F	F	F	E	B	B
	R-2 & R-3	A	-	A	B	F	D	F	F	F	D	B	B
	R-4 & R-5	A	A	-	B	F	C	E	E	F	C	B	B
	R-8 & R-13	B	B	B	-	F	B	D	D	F	C	B	B
	MHP-CZ	F	F	F	F	-	F	F	F	F	F	F	F
	O/I, NC-2, LC-1	E	D	C	B	F	-	-	-	F	B	B	D
	CC-3, GC-4, EC-5	F	F	E	D	F	-	-	-	F	B	B	D
	EI, I-1, I-2, I-3, PID	F	F	E	E	F	-	-	-	F	B	B	D
	AS, ASE-CZ ²⁷	D	A	A	A	F	A	A	A	F	B	B	B

Note: MPD-CZ buffers to be determined at time of approval.

(E) Natural Buffers

²⁷ The AS zoning district does not currently appear on this chart. Staff is suggesting the AS zoning district be added to the chart to require that property zoned AS is also required to provide a buffer.

No changes proposed on this page - it is included so the Buffer table would be readily available.

- (1) If there is existing, healthy, natural vegetation in the area of a required buffer, it must be preserved. If the vegetation is removed for any reason, other than in accordance with an approved landscape and tree preservation plan, the dimensions of the buffer shall be increased 50% and the number of required plantings shall be increased 50%.
- (2) The critical root zones of trees within the buffer must be protected if the applicant seeks credit for preservation of existing trees. For example, if a required buffer has a dimensional width of 30 feet, and the critical root zone extends beyond the 30 feet, the buffer will be extended to the edge of the critical root zone in the area around the tree.
- (3) If necessary, a natural buffer will be supplemented with additional plantings in order to meet the Constructed Buffers standards established herein.

(F) Constructed Buffers

- (1) If existing plantings are not sufficient to meet the buffer standards established in this Section, additional plantings shall be installed.
- (2) The plant units listed below will be considered comparable, and therefore interchangeable, as set forth below.
- (3) Option 2, Deciduous, shall not be permitted when the proposed use is non-residential and is proposed next to a residential district or use, unless employed with a wall, as set forth herein.

TABLE 6.8.6.F: BUFFER TYPES					
BUFFER TYPE	MINIMUM WIDTH	OPTION 1 MIXED	OPTION 2 DECIDUOUS	OPTION 3 EVERGREEN	OPTION 4 OVERHEAD UTILITY
Plant Material Required Per 100 Linear Feet					
A	20	1 Canopy Tree 0 Evergreen Tree 1 Deciduous Understory 2 Evergreen Understory 13 Shrubs Tree	2 Canopy Tree 0 Evergreen Tree 2 Deciduous Understory 0 Evergreen Understory 12 Shrubs Tree	0 Canopy Tree 2 Evergreen Tree 0 Deciduous Understory 3 Evergreen Understory 13 Shrubs Tree	0 Canopy Tree 0 Evergreen Tree 3 Deciduous Understory 2 Evergreen Understory 10 Shrubs Tree
B	30	1 Canopy Tree 0 Evergreen Tree 1 Deciduous Understory 2 Evergreen Understory 13 Shrubs Tree	2 Canopy Tree 0 Evergreen Tree 2 Deciduous Understory 0 Evergreen Understory 12 Shrubs Tree	0 Canopy Tree 2 Evergreen Tree 0 Deciduous Understory 3 Evergreen Understory 13 Shrubs Tree	0 Canopy Tree 0 Evergreen Tree 3 Deciduous Understory 2 Evergreen Understory 10 Shrubs Tree
C	40	3 Canopy Tree 1 Evergreen Tree 2 Deciduous Understory 5 Evergreen Understory 40 Shrubs Tree	3 Canopy Tree 1 Evergreen Tree 2 Deciduous Understory 5 Evergreen Understory 40 Shrubs Tree	0 Canopy Tree 4 Evergreen Tree 0 Deciduous Understory 9 Evergreen Understory 38 Shrubs Tree	0 Canopy Tree 0 Evergreen Tree 7 Deciduous Understory 5 Evergreen Understory 30 Shrubs Tree
D	50	6 Canopy Tree 1 Evergreen Tree 4 Deciduous Understory 9 Evergreen Understory 70 Shrubs Tree	7 Canopy Tree 0 Evergreen Tree 10 Deciduous Understory 0 Evergreen Understory 67 Shrubs Tree	0 Canopy Tree 7 Evergreen Tree 0 Deciduous Understory 16 Evergreen Understory 68 Shrubs Tree	0 Canopy Tree 0 Evergreen Tree 12 Deciduous Understory 9 Evergreen Understory 53 Shrubs Tree

TABLE 6.8.6.F: BUFFER TYPES					
BUFFER TYPE	MINIMUM WIDTH	OPTION 1 MIXED	OPTION 2 DECIDUOUS	OPTION 3 EVERGREEN	OPTION 4 OVERHEAD UTILITY
Plant Material Required Per 100 Linear Feet					
E	75	6 Canopy Tree 1 Evergreen Tree 4 Deciduous Understory 10 Evergreen Understory 77 Shrubs Tree	8 Canopy Tree 0 Evergreen Tree 11 Deciduous Understory 0 Evergreen Understory 73 Shrubs Tree	0 Canopy Tree 8 Evergreen Tree 0 Deciduous Understory 17 Evergreen Understory 74 Shrubs Tree	0 Canopy Tree 0 Evergreen Tree 13 Deciduous Understory 10 Evergreen Understory 58 Shrubs Tree
F	100	7 Canopy Tree 1 Evergreen Tree 5 Deciduous Understory 12 Evergreen Understory 85 Shrubs Tree	10 Canopy Tree 0 Evergreen Tree 13 Deciduous Understory 0 Evergreen Understory 80 Shrubs Tree	0 Canopy Tree 10 Evergreen Tree 0 Deciduous Understory 20 Evergreen Understory 83 Shrubs Tree	0 Canopy Tree 0 Evergreen Tree 16 Deciduous Understory 12 Evergreen Understory 65 Shrubs Tree

6.8.7 Planting Requirements

(A) Street Trees

- (1) Street trees shall be required at the rate of one canopy tree and one understory, either deciduous or evergreen, tree for every 65 feet of street frontage along existing and proposed public and private streets, not including alleys.
- (2) To enhance the natural appearance in the rural areas of the County, canopy and understory trees shall be planted, and clustering is encouraged. However, there must be at least one tree every 100 feet of street frontage.
- (3) In all developments subject to the provisions of this section, the developer shall either retain or plant trees within the front yard setback along all existing and proposed street frontages, public and private, except for alleys.
- (4) If a conflict exists with public utilities, alternate plantings consisting of a greater number of understory trees will be permitted.
- (5) Street trees shall be of a species included on the Planning Director's list of acceptable street tree species.

(B) Between Lot Plantings

- (1) Where a land use buffer is not required, a landscape area ten feet in width exclusive of drainage and/or utility easements shall be provided along the interior side and rear lot lines of each lot being developed. If there are no existing trees, the developer shall provide a minimum of one tree per one thousand square feet of land contained within the ten foot landscape area.

TABLE 6.9.7: OFF-STREET PARKING REQUIREMENTS	
USE	MINIMUM PARKING REQUIREMENTS
AGRICULTURAL USES	
Agricultural Processing Facility	One space per employee plus one space per 200 square feet of any accessory retail sales area
Agricultural Processing Facility, Community	One space per employee plus one space per 200 square feet of any accessory retail sales area
Agricultural Service Uses	One space per 400 square feet of gross floor area
Cold Storage Facility	One space per employee
Community Farmers' Market	One space per 200 square feet of gross floor/selling area or a minimum of five spaces, whichever is greater
Composting Operation	One space per employee
Cooperative Farm Stand	One space per 200 square feet of gross floor/selling area or a minimum of five spaces, whichever is greater
Equestrian Center	One space per horse stall plus one space per employee plus one space per 4 spectator seats
Farm Equipment Rental, & Sales and Service	One space per 400 square feet of gross floor area
Farm Supply Store	One space per 300 square feet of gross floor area
Feed, Seed, Storage and Processing Mill	One space per employee on shift of maximum employment
Commercial Feeder Operation	One space per employee on shift of maximum employment
Greenhouses with (On Premises Sales)	One space per 400 square feet of gross floor area
Meat Processing Facility	One space per employee
Stables, Commercial	One space per three horses (or other equine) kept on site
Stockyards / Livestock Markets	One space per employee plus one space per 4 spectator seats OR one space per employee plus one space per 50 square feet of event area, whichever is greater
Teaching Farm	One space per employee plus one space per student
CHILD CARE AND EDUCATIONAL FACILITIES	
Child Care Facilities	One space per staff member and one space per five children
Daycare Center in a Residence	One space per staff member and one space per five children
Schools: Elementary, Middle & Secondary	One space per staff member One space per staff member and One space per four students
Schools: Vocational	One space per two students
Schools: Dance, Art & Music	One space per four students
Universities, Colleges and Institutes	One space per three students at design capacity of building(s)
Libraries	One space per four seats
COMMERCIAL USES	
Adult Uses	One space per 200 square feet of gross floor area
Banks & Financial Institutions	One space per 200 square feet of gross floor area; plus five stacking spaces per drive-in window
Beauty & Barber Shops	One space per 200 square feet
Country Store	One space per 300 square feet of gross floor area
Drive-In Theaters	no requirement
Funeral Homes	One space per four seats
Garden Center with On Premise Sales	One space per 300 square feet of gross floor area
Greenhouses (No On Premises Sales)	One space per employee on shift of maximum employment
Greenhouses (On Premises Sales)	One space per 400 square feet of gross floor area

TABLE 6.9.7: OFF-STREET PARKING REQUIREMENTS	
USE	MINIMUM PARKING REQUIREMENTS
Hotels, Motels, Motor Lodges	One space per lodging unit, plus one space per employee
Junkyards	One space per employee on shift of maximum employment
Kennels/Riding Stables	One space per four pens or stalls
Laundry & Dry Cleaning Services	One space per 300 square feet of gross floor area
Metal Fabrication Shop	One space per employee
Microbrewery with Minor Events	One space per employee plus one space per 300 square feet of retail space one space per 50 square feet of event area
Microbrewery with Major Events	One space per employee plus one space per 300 square feet of retail space one space per 50 square feet of event area
Night Clubs, Bars, Pubs	One space per four seats
Offices and Personal Services, Class 1	One space per 300 square feet of gross floor area
Offices and Personal Services, Class 2	One space per 300 square feet of gross floor area
Offices and Personal Services, Class 3	One space per 300 square feet of gross floor area
Repair Services: Electronic & Appliance	One space per 300 square feet of gross floor area
Restaurants: Carry Out	15 spaces plus one space per 50 square feet of gross floor area
Restaurants: Drive-In	15 spaces, plus one space per 50 square feet of gross floor area
Restaurants: General	One space per four seats or one space for every 50 feet of floor area for public use, whichever is greater
Retail trade, Class 1	One space per 300 square feet of gross floor area
Retail trade, Class 2	One space per 300 square feet of gross floor area
Retail trade, Class 3	One space per 200 square feet of gross floor area
Rural Guest Establishments: Bed & Breakfast	One space per guest room, plus one space per employee, plus two spaces for the residence
Rural Guest Establishments: Bed & Breakfast Inn	One space per guest room, plus one space per employee, plus two spaces for the residence
Rural Guest Establishments: Country Inn	One space per guest room, plus one space per employee, plus one space for every four seats in the restaurant, plus two spaces for the residence (if applicable)
Storage & Warehouse: Inside Building	One space per employee
Storage of Goods: Outdoor	One space per employee
Taxidermy	One space per 400 square feet of gross floor area
Tourist Home	One space per lodging unit
Wholesale Sales	One space per employee on shift of maximum employment
Winery with Minor Events	One space per employee plus one space per 300 square feet of retail space one space per 50 square feet of event area
Winery with Major Events	One space per employee plus one space per 300 square feet of retail space one space per 50 square feet of event area
EXTRACTIVE USES	
Extraction of Earth Products	no requirement
GOVERNMENTAL USE	
Governmental Protective Services	One space per employee on the shift of maximum employment
Police and Fire Stations	no requirement
Military Installations (National Guard & Reserve Armory)	no requirement
MANUFACTURING, ASSEMBLY & PROCESSING	
Industrial, Light	One space per employee on the shift of maximum employment

TABLE 6.9.7: OFF-STREET PARKING REQUIREMENTS	
USE	MINIMUM PARKING REQUIREMENTS
Industrial, Medium	One space per employee on the shift of maximum employment
Industrial, Heavy	One space per employee on the shift of maximum employment
Metal Fabrication Shop	One space per employee
Microbrewery, production only	One space per employee
Printing and Lithography	One space per employee
Sawmills	One space per employee
Winery, production only	One space per employee
MEDICAL USES	
Animal Veterinary Hospitals; Veterinarians	One space per 200 square feet of gross floor area
Health Services; Under 10,000 Square Feet	One space per 300 square feet of gross floor area
Health Services; Over 10,000 Square Feet	One space per 200 square feet of gross floor area
Hospitals	One space per 4 four beds
Veterinary Clinic	One space per employee plus one space per 300 square feet of gross floor area
Veterinary Clinic, mobile	One space per employee
RECREATIONAL USES	
Amusement Areas	One space per 50 square feet
Athletic Field	Ten spaces per field
Basketball Court	Five spaces per court
Billiard or Pool Hall	Two spaces per table
Botanical Gardens & Arboretums	Two spaces per acre
Bowling Establishment	Three spaces per lane
Camp / Retreat Center	Five spaces for first two acres of recreation space and one space for each additional acre thereafter
Golf Courses	Two spaces per tee
Guest Ranch	One space per guest room, plus one space per employee. Additional parking may be required based on facilities and uses proposed.
Health Exercise Facility	One space per 50 square feet
Pitch and Putt Courses	Two spaces per tee
Shooting Ranges	One space per target area
Skating Rink	One space per 200 square feet
Subdivisions - Private Recreational Facilities Dedicated Recreational Land	Five off-street parking spaces for first two acres of each recreational site plus one space for each additional acre thereafter
Swimming Pool	One space for every five patrons, based on maximum design capacity
Soccer Fields, Ball Fields	Eight spaces per acre
Tennis, Handball, Racquet Ball Courts	Two spaces per court
Basketball Courts	Five spaces per court
Picnic Shelter Area	One space for every ten patrons, based on maximum design capacity
Swimming Pool	One space per 140 square feet
Tennis, squash, Handball or Racquet Ball Court	Two spaces for every court
RESIDENTIAL USES	

TABLE 6.9.7: OFF-STREET PARKING REQUIREMENTS	
USE	MINIMUM PARKING REQUIREMENTS
Dwelling, Multi-family: Efficiency One bedroom Two bedroom	One space per dwelling unit One and one-half space per dwelling unit Two spaces per dwelling unit
Dwelling, Single Family	One space per dwelling unit
Dwelling, Two Family	One space per dwelling unit
Family Care Facilities	One space per three residents; One space per employee on the shift of maximum employment
Group Care Facilities	One space per two beds; One space per employee on shift of the maximum employment
Membership Lodges (Sororities and fraternities)	One space per lodging resident member
Mobile Homes	One space per unit
Rehabilitative Care Facility	One space per two beds; One space per staff member
Rooming House	One space per lodging unit
TEMPORARY USES	
Buildings; Portable	See appropriate uses
TRANSPORTATION	
Bus Passenger Shelters	no requirement
Bus Terminals and Garages	no requirement
Motor Freight Terminals	One space per employee
Motor Vehicle Maintenance & Repair (Body Shop)	One space per each service bay and mechanic
Motor Vehicle Sales Rental (New and Used)	One space per 400 square feet of gross floor area
Motor Vehicles Service Stations	One space per each service bay and mechanic
Parking as Principle Use Surface or Structure	no requirement
Petroleum Products: Storage and Distribution	One space per employee
Postal and Parcel Delivery Services	One space per employee on shift of maximum employment and one space per 800 square feet of gross floor area
UTILITIES	
Public Utility Stations & Substations, Pumping Stations, Switching Stations, Telephone Exchanges	no requirement
Radio & Television Transmitting & Receiving Towers, Water Treatment & Sanitary Sewage Treatment Plants, Elevated Water Storage Tanks	no requirement
Transmission Lines	no requirement
WASTE MANAGEMENT	
Landfills (2 acres or more)	no requirement
Waste Management Facility, Hazardous and Toxic	One space per employee on shift of maximum employment
MISCELLANEOUS	
Airport General Aviation	One space per four air vehicles
Assembly Facility Greater than 300	One space per two seats
Assembly Facility Less than 300	One space per two seats

TABLE 6.9.7: OFF-STREET PARKING REQUIREMENTS	
USE	MINIMUM PARKING REQUIREMENTS
Cemetery	no requirement
Church	One space per four seats
Clubs or Lodges, Social	One space per three members
Community Center	One space per 400 square feet of gross floor area
Crematoria	One space per employee
Research Facility	One space per employee
Research Lands & Installations , Non-Profit	no requirement
Rural Heritage Museum	One space per 400 square feet of gross floor area
Rural Special Events	One space per employee plus one space for 50 square feet of event area

6.9.8 Determination For Unlisted Uses

The Planning Director shall make a determination of the minimum required off-street parking spaces for uses not specifically listed in this Section. In reaching the determination, the Planning Director may consider the following:

- (1) Requirements for similar uses,
- (2) The number and kind of vehicles likely to be attracted to the proposed use, and
- (3) Studies of the parking requirements of such uses in other jurisdictions.

6.9.9 Fractional Results

When the number of parking spaces required by this Section results in a fractional space, any fraction of less than one-half may be disregarded; a fraction of one-half or more shall be counted as one parking space.

6.9.10 Off-Street Parking Design Standards

(A) Standard Parking Spaces

- (1) Each parking space shall have a minimum area of 180 square feet and have a minimum width of 9 feet.
- (2) Wheel stops or curbs may be required to prevent encroachment on pedestrian ways and/or landscaping.

DEFINITIONS

Related to Agricultural Support Enterprises

In an effort to minimize the number of pages for the amendment package, relevant definitions have been extracted from the UDO and proposed new definitions are listed as a group. After approval, the definitions will be inserted alphabetically into Article 10 of the UDO.

Revised Definitions of Existing Terms:

Commercial Feeder Operation¹

~~An intensive animal raising operation that takes place within a building. None of the feed is produced on the tract, and the processing is fully or partly automated.~~

Riding Stable, Commercial

~~A commercial facility where horses are sheltered, fed, groomed, boarded, trained, ridden, or bred. Typical accessory uses may include riding instruction, horse shows and auctions, a tack shop, and storage of feed and supplies. The operator of a riding stable shall be allowed to reside on the property to ensure the continuous care of the animals kept on-site.~~ **An establishment for boarding, breeding, training or raising of horses, ponies, mules, and/or donkeys for a fee; and/or rental of horses, ponies, mules, and/or donkeys for riding, driving, and/or instruction. Exercise rings shall be considered accessory uses to a commercial stable. The operator of a commercial stable may reside on the property to ensure the continuous care of animals kept on the site.**

Proposed Definitions for New Terms:

Agricultural Processing Facility, Community

A facility utilized for the processing of produce and/or other commodities produced by no more than 5 cooperative farm partners for the consumption of others (e.g. small canning operation); Activities shall include, but may not be limited to, canning, dehydrations, washing, cutting or basic preparation of raw produce but does not include processing of live animals (see Meat Processing Facility). May include accessory retail sales of products processed on-site.

Agricultural Processing Facility

A facility utilized for the processing and packaging of produce and/or other commodities for transport to off-site wholesale or retail establishments. Facilities may be utilized by farm-based producers, restaurateurs, caterers, food entrepreneurs, and the like. Activities shall include, but may not be limited to, canning, dehydrations, washing, cutting or basic preparation of raw produce prior to shipment but does not include processing of live animals (see Meat Processing Facility). May include accessory retail sales of products processed on-site.

Agritourism

A business directly related or incidental to agricultural activities occurring on the bona fide farm on which it is located and conducted for the enjoyment or education of the public.

Cold Storage Facility

A facility used to warehouse perishable foods and products prior to transport.

¹ This is considered a bona fide farm operation under State Statutes and cannot be regulated with zoning so staff is suggesting it be deleted from the UDO.

Community Farmers' Market

An enclosed or open-air facility for the retail sale of locally produced vegetables, flowers, meats, commodities, plants, crafts, etc. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

Composting Operation

A facility designed and used for transforming food, yard waste and other organic material into soil or fertilizer through biological decomposition. This does not include backyard composting bins serving individual families.

Cooperative Farm Partner

A local farmer or producer of agricultural products who forms a business arrangement with other local farmers and/or producers to collectively process, market, and/or sell agricultural goods. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

Cooperative Farm Stand

An open-air facility, located on a bona fide farm, for the retail sale of produce, agricultural products, and/or plants produced on-site and from not more than 4 other cooperative farm partners.

Country Store

An enclosed market not exceeding 1500 square feet in size for the retail sales of a variety of merchandise, which must include locally produced products. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

Equestrian Center

A facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, rodeos, general horse/mule shows, and similar equestrian disciplines. A commercial stable may be included on the site.

Farm Equipment, Non-Farm Use

Commercial use of the farm equipment owned/leased by, and stored on, a bona fide farm non-farming activities away from the bona fide farm. Examples include grading services and landscaping services.

Farm Equipment Rental, Sales and Service

An establishment engaged in the rental, sales, service, and/or repair of construction or farm equipment, including excavators, loaders, graders, bulldozers, farm tractors 50 horsepower or more in size and other large, heavy-duty types of equipment used in the construction or farming industries but not including horse trailers, trucks, or other vehicles designed for use on public roads.

Farm Supply Store

An establishment engaged primarily in the sale or rental of farm tools, small farming equipment, and farm supplies. Retail sales of animal feed, grain, hardware, lumber, tack, riding attire, animal care products, and the like may be an ancillary activity.

Feed Mill

A building with machinery and apparatus for grinding and/or bagging grain.

Guest Ranch

A rural lodge providing overnight accommodations for transient guests seeking a vacation experience characteristic to that of a rural ranch; onsite facilities may include lodge or cabin accommodations, dining

facilities, barns, dance hall and recreational facilities, including but not limited to riding rings, trails, fishing holes and swimming facilities.

Meat Processing Facility, Community

A smaller scale facility, located on a bona fide farm, where livestock or wildlife is slaughtered, processed, and packaged for personal consumption and/or wholesale or retail sale. The livestock must be raised on the subject farm and from 1 to 4 other cooperative farm partners.

Meat Processing Facility, Regional

A larger scale facility where livestock is slaughtered, processed, and prepared for distribution for wholesale or retail sale.

Metal Fabrication Shop

A facility that is engaged in the shaping of metal and similar materials for wholesale or retail sale.

Microbrewery, production only

A facility that produces less than 15,000 barrels per year of craft malt beverages for wholesale or retail sale and consumption off the premises. Shall be considered a bona fide farming use if located on a farm and using primarily crops produced on-site.

Microbrewery with Minor Events

A facility that produces less than 15,000 barrels per year of craft malt beverages for consumption on- or off-site with limited hours for tours of the facility and tastings of the products produced on-site, and small periodic events that are expected to attract fewer than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

Microbrewery with Major Events

A facility that produces less than 15,000 barrels per year of craft malt beverages for consumption on- or off-site with tours of the facility, tastings of the products produced on-site, and periodic events that are expected to attract more than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

Rural Heritage Museum

A facility which stores and exhibits objects of historical, agricultural, and/or cultural interest for the purpose of educating the public about the rural heritage of Orange County and surrounding areas.

Rural Special Event

A temporary or seasonal commercial activity that occurs on a bona fide farm and which is expected to attract more than 20 people at any given time.

Saw Mill

A facility where off-site logs or timber are sawn, planed or otherwise processed into lumber or other wood products; not including the processing of timber for use on the same parcel of property.

Stockyard / Livestock Market

A facility where livestock are kept temporarily awaiting purchase and/or transport; such facilities may include enclosed pavilions, grandstands, paddocks, and stalls.

Taxidermy

The practice of preparing and preserving the skins of animals and of stuffing and mounting them in lifelike form.

Veterinary Clinic

A facility staffed by at least one licensed veterinarian for the care and treatment of large and/or small animals. Such facilities may include grooming and short-term boarding as incidental uses.

Veterinary Clinic, mobile

A mobile medical facility staffed by one or more licensed veterinarians to provide care, diagnosis, and treatment of animals in need of medical or surgical attention.

Veterinary Hospital

A facility staffed by at least one licensed veterinarian for the specialized treatment of large and/or small animals. Said facilities may provide emergency medical services during and outside of normal business hours. Overnight care may be provided when it is necessary for the medical treatment of the animal.

Winery, production only

A facility utilized for making wines for wholesale or retail sale and consumption off the premises. Shall be considered a bona fide farming use if located on a farm and using primarily crops produced on-site.

Winery with Minor Events

A facility utilized for making wines for consumption on- or off-site with limited hours for tours of the facility and tastings of the products produced on-site, and small periodic events that are expected to attract fewer than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

Winery with Major Events

A facility utilized for making wines for consumption on- or off-site with tours of the facility, tastings of the products produced on-site, and periodic events that are expected to attract more than 150 people to the site. Food services may be permitted under the conditional zoning or special use permit approval.

Relevant Existing Terms, no changes proposed:**Agricultural Services**

Commercial activities offering goods and services which support production of agricultural products or processing of those products to make them marketable. Examples include, but are not limited to, soil preparation, animal and farm management, landscaping and horticultural services, specialized commercial horticulture, specialized animal husbandry, biocide services, retail sales of farm/garden products, supplies and equipment, equipment rental and repair service, tack shop, farrier, blacksmith, welding shops, facilities for animal shows, animal sales and auctions, agriculture-based clubs/meeting halls, storage of agricultural supplies and products, and processing plants for agricultural products including wineries and canneries.

Camp

A recreation use which may include locations for tents, cabins, or other recreational sleeping structures, but would not include mobile homes or recreation vehicles. A camp may be owned by a profit or not-for-profit corporation.

Farming

The use of land consistent with the State of North Carolina's definition of farming, as contained in the General Statutes.

Farm, Bona Fide

The use of land meeting the criteria for "Farm" as defined by the State of North Carolina in the General Statutes.

Garden Center

Retail sales operation providing lawn and garden supplies and small equipment rental primarily for home landscaping. Typical products include, but not limited to, decorative stone, garden ornaments, decorative pots, container plant stock, and bagged or bulk sand, mulch and topsoil. Seasonal sales such as Christmas trees, pumpkins and flowers are permitted in the outdoor display area.

Retreat Center

A new or existing facility operated by a corporation or association of persons or churches for social and recreational purposes. A retreat center may be owned by a profit or not-for-profit corporation.

Rural Guest Establishments

A temporary lodging facility that is compatible to the primary land use of agriculture, forestry, open space, or otherwise rural residential activities. Rural guest establishments consist of three subcategories based on intensity and permit requirements, Bed and Breakfast, Bed and Breakfast Inn, and Country Inn, which are further defined below.

- A. **Bed and Breakfast:** A private, owner-occupied dwelling in which the frequency and volume of paying guests is incidental to the primary use of the building as a private residence. One to three guestrooms are made available to transient visitors. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only. (Zoning Permit)
- B. **Bed and Breakfast Inn:** A business operated in a structure which is used primarily for providing overnight accommodations to the public, even though the owner or manager lives on the premises. The number of guestrooms may range from four to no more than eight. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only. (Class B SUP)
- C. **Country Inn:** A business, which offers accommodations and dining in a predominately rural area. Overnight accommodations are available, and a full-service restaurant provides breakfast, lunch and dinner to guests and the general public. The number of guestrooms may range from four to no more than 24. The restaurant shall contain no more than 60 seats. (Class A SUP)

2030 COMPREHENSIVE PLAN AMENDMENTS



No revisions on first two pages - included for information only. See third page for changes.

Appendix F: Land Use and Zoning Matrix

Appendix F. Relationships Between Land Use Classifications and Zoning Districts

Per the Orange County Unified Development Ordinance, zoning districts are applied to Land Use classifications and overlays in accordance with this appendix. A matrix is provided at the end of this appendix that links the zoning districts to the land use classifications and overlays listed.

TRANSITION LAND USE CLASSIFICATIONS

CHAPEL HILL AND CARRBORO TRANSITION

On November 2, 1987, a Joint Planning Agreement was adopted by Orange County and the Towns of Chapel Hill and Carrboro. The Agreement became effective on November 14, 1988, following the adoption, by Orange County, of zoning plans prepared by the two municipalities for their respective Transition Areas. The applied zoning districts are those contained in the Chapel Hill Land Development Ordinance and the Carrboro Land Use Ordinance, and are consistent with the land use plan categories contained in the Orange County Chapel Hill Carrboro Joint Planning Land Use Plan. Reference should be made to the appropriate municipal ordinance and zoning map for a description of the districts and applicable development standards. Under the terms of the Joint Planning Agreement, the Towns of Chapel Hill and Carrboro are responsible for permit administration within their respective Transition Areas.

10-YEAR TRANSITION

Identifies areas changing from rural to urban in form and density. All densities of residential development would be appropriate. Non-residential uses implemented in accordance with small area plans and/or overlay districts may be appropriate. The applied zoning districts include: R-1 (Rural Residential); R-2 (Low Intensity Residential), R-3 (Medium Intensity Residential), and R-4 (Medium Intensity Residential); and R-5 (High Intensity Residential), R-8 (High Intensity Residential), and R-13 (High Intensity Residential) residential uses, and Zoning Overlay Districts.

20-YEAR TRANSITION

Identifies areas changing from rural to urban in form and density. All densities of residential development would be appropriate. The applied zoning districts include: R-1 (Rural Residential); R-2 (Low Intensity Residential), R-3 (Medium Intensity Residential), and R-4 (Medium Intensity Residential); and R-5 (High Intensity Residential), R-8 (High Intensity Residential), and R-13 (High Intensity Residential) residential uses.

COMMERCIAL TRANSITION ACTIVITY NODE

Identifies areas changing from rural to urban in form and density. A full range of intensities of commercial development would be appropriate. The applied zoning districts include: LC-1 (Local Commercial); NC-2 (Neighborhood Commercial); CC-3 (Community Commercial); GC-4 (General Commercial); and O/I (Office/Institutional).

COMMERCIAL-INDUSTRIAL TRANSITION ACTIVITY NODE

Identifies areas changing from rural to urban in form and density. A full range of commercial and industrial activities would be appropriate and allowed. The applied zoning districts include: I-1 (Light Industrial); I-2 (Medium Industrial); I-3 (Heavy



Appendix F: Land Use and Zoning Matrix

Industrial); LC-1 (Local Commercial); NC-2 (Neighborhood Commercial); CC-3 (Community Commercial); GC-4 (General Commercial); and O/I (Office/Institutional).

ECONOMIC DEVELOPMENT TRANSITION ACTIVITY NODE

Identifies areas along major transportation corridors that may be in proximity to 10-Year or 20-Year Transition areas of the County which have been specifically targeted for economic development activity, consisting of light industrial, distribution, flex space, office, and service/retail uses. Such areas are located adjacent to interstate and major arterial highways, and subject to special design criteria and performance standards. The applied zoning districts are EDB-1 (Economic Development Buckhorn Lower Intensity), EDB-2 (Economic Development Buckhorn Higher Intensity), EDE-1 (Economic Development Eno Lower Intensity), EDE-2 (Economic Development Eno Higher Intensity), EDH-1 (Economic Development Hillsborough Linear Office), EDH-2 (Economic Development Hillsborough Limited Office), EDH-3 (Economic Development Hillsborough Limited Office with Residential), EDH-4 (Economic Development Hillsborough Office), EDH-5 (Economic Development Hillsborough Office/Flex).

RURAL LAND USE CLASSIFICATIONS

RURAL BUFFER

Only very low density residential and agricultural uses are appropriate in the Rural Buffer. The applied zoning district is RB (Rural Buffer).

RURAL RESIDENTIAL

Identifies rural areas to be developed as low intensity and low density residential. The applied zoning district is R-1 (Rural Residential).

AGRICULTURAL RESIDENTIAL

Agricultural activities and associated residential and commercial uses predominate. The applied zoning districts reflect this primary land use and include: AR (Agricultural Residential) and AS (Agricultural Services).

RURAL COMMUNITY ACTIVITY NODE

Identifies rural crossroads communities throughout the County where small scale commercial activities serving the community and surrounding area are appropriate. The applied zoning districts include: LC-1 (Local Commercial) and NC-2 (Neighborhood Commercial).

RURAL NEIGHBORHOOD ACTIVITY NODE.

Identifies areas in the County where small scale commercial uses serving the population in the surrounding area are appropriate. The applied zoning districts include: LC-1 (Local Commercial) and NC-2 (Neighborhood Commercial).

RURAL INDUSTRIAL ACTIVITY NODE

Identifies rural areas in the County where small scale industrial activities would be appropriate. The applied zoning district is I-1 (Light Industrial).

OVERLAYS

PUBLIC INTEREST AREA

These lands are considered valuable for recreational and research purposes and are afforded special treatment. The applied zoning district is PID (Public Interest District).



Appendix F: Land Use and Zoning Matrix

Land Use Classifications & Overlays	ZONING DISTRICTS																							
	RB	AR	R-1	R-2	R-3, R-4	R-5, R-8, R-13	LC-1	NC-2	CC-3	GC-4 -	EC-5	O/I	I-1	I-2	I-3	EI	EDB-1, EDB-2, EDE-1, EDE-2, EDH-1, EDH-2, EDH-3, EDH-4, EDH-5	AS	Special Zoning Overlay District	PID	ASE-CZ	MPD-CZ	MHP-CZ	
Chapel Hill Transition	Permit Administration by Municipalities under the provisions of the Joint Planning Agreement-																							
Carrboro Transition	Contact appropriate Municipality for applicable Zoning Standards																							
10-Year Transition			◆	◆	◆	◆													◆			◆	◆	
20-Year Transition			◆	◆	◆	◆																	◆	◆
Commercial Transition Activity Node							◆	◆	◆	◆		◆									◆		◆	
Commercial-Industrial Transition Activity Node							◆	◆	◆	◆		◆	◆	◆	◆						◆		◆	
Economic Development Transition Activity Node																	◆						◆	
Rural Buffer	◆																				◆			◆
Rural Residential			◆																		◆			◆
Agricultural Residential		◆																◆			◆			◆
Rural Community Activity Node							◆	◆													◆		◆	
Rural Neighborhood Activity Node							◆	◆													◆			
Rural Industrial Activity Node													◆								◆			
Overlay																				◆				