

MINUTES
ORANGE COUNTY PLANNING BOARD
JANUARY 9, 2013
REGULAR MEETING

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MEMBERS PRESENT: Larry Wright (Chair), At-Large, Cedar Grove Township; Peter Hallenbeck (Vice-chair), Cheeks Township Representative; Alan Campbell, Cedar Grove Township Representative; Buddy Hartley, Little River Township Representative; Johnny Randall, At-Large Chapel Hill Township; Tony Blake, Bingham Township Representative; Andrea Rohrbacher, At-Large Chapel Hill Township; Lisa Stuckey, Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township; Rachel Hawkins, Hillsborough Township Representative; Herman Staats, At-Large, Cedar Grove Township

MEMBERS ABSENT: Dawn Brezina, Eno Township Representative;

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

HANDOUTS GIVEN AT MEETING *Planning Calendars for 2013*

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: ELECTION OF CHAIR AND VICE-CHAIR FOR 2013

Buddy Hartley nominated Pete Hallenbeck to serve as the Planning Board Chair for 2013. No other members were nominated. Planning Board members voted unanimously to appoint Pete Hallenbeck to serve as Chair.

Buddy Hartley nominated Alan Campbell to serve as the Planning Board Vice-Chair for 2013.

Larry Wright nominated Lisa Stuckey to serve as the Planning Board Vice-Chair for 2013.

(paper ballots were distributed and cast)

Tina Love tabulated the votes. There was a tie.

(Alan Campbell arrived)

Alan Campbell: I decline the nomination.

Lisa Stuckey was appointed as the Vice-Chair for 2013

Larry Wright: Congratulations to the officers.

AGENDA ITEM 3: INFORMATIONAL ITEMS

a) Planning Calendar for January and February

AGENDA ITEM 4: APPROVAL OF MINUTES

DECEMBER 5, 2012 REGULAR MEETING

MOTION by Lisa Stuckey to approve the December 5, 2012 Planning Board minutes. Seconded by Buddy Hartley.

VOTE: UNANIMOUS

55 AGENDA ITEM 5: CONSIDERATION OF ADDITIONS TO AGENDA

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58 AGENDA ITEM 6: PUBLIC CHARGE

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Introduction to the Public Charge

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

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PUBLIC CHARGE

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

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79 AGENDA ITEM 7: CHAIR COMMENTS

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Pete Hallenbeck: Larry, as outgoing Chair, would you like to make any comments?

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Larry Wright: It has been a pleasure to serve you as chair. I have learned and witnessed that this Board and this county does work from the grass roots level up and the BOCC does listen to the Board. Your role on this Board is very important and over the time I have appreciated seeing some people who were reluctant to speak up make their opinions known and they are doing this now and I am happy to see you flourish. One thing I consider very important, and I hope new members continue to observe, is that you exercise your right to have a dissenting opinion and there are times when the BOCC does listen to the dissenting opinion and they move on that. Buckhorn road was a prime example because the majority voted against Buckhorn. Thank you for allowing me to serve.

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Agenda Item 8: Kennel Processes and Regulations – To continue discussion on BOCC-requested input into the processes and regulations for kennels. This item was continued from the November 7, 2012 regular meeting when the work plan was acted upon, the Planning Board Chair and Vice-Chair asked that this be a discussion item for the January 9, 2013 agenda.

Presenter: Michael Harvey, Current Planning Supervisor

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Michael Harvey: Reviewed abstract on page 15.

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Alan Campbell: On the chart under "Review Process" and "Staff Review and Approval" for Durham and Chapel Hill, does that mean it is discretionary? Also, is that a good thing in your mind?

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Michael Harvey: Obviously, it is similar to Orange County staff reviewing and approving a proposed kennel operation. They have their version of the UDO with guidelines and standards and their obligation is to ensure the project complies with all of those standards. They review a site plan and make the determination that complies with development regulations in issuing a zoning compliance permit allowing the project to move forward. I think you have a policy in this county where the elected officials have determined that certain uses due to their nature deserve a heightened level of review. I am not speaking against Class II Kennel being a special use permit. I think

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109 there are issues involved with their locations that warrant a heightened level review. If you are asking if staff would
110 be comfortable approving it, with the ordinances we have and the standards, I am comfortable with approving or
111 denying anything as long as I have justification.

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113 Alan Campbell: My question gets into the notion that if you have a special use permit that you are held to if they
114 meet the requirements then you have to approve it but if it is discretionary then you have more room.

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116 Michael Harvey: If you, as an applicant, prove you comply with the code, I also have to issue the permit. If there
117 are interpretative issues, then you have the right to appeal me.

118
119 Alan Campbell: If you have someone who opened a kennel where they were not supposed to and don't meet any
120 requirements, what is the enforcement mechanism?

121
122 Michael Harvey: If we find an illegal kennel, we initiate zoning enforcement actions which mean we can issue civil
123 citations daily in the amount of \$500 after appropriate notices of violation are issued. We can seek an injunction
124 from the court. They are technically guilty of a misdemeanor if they violate the land use regulations so we have
125 enforcement procedures we can initiate.

126
127 Alan Campbell: One of the problems with animal enforcements is that if it is the middle of the night, they will not
128 address that issue.

129
130 Michael Harvey: If is it a land use issue, we initiate an enforcement action. You, as a property owner, do have
131 rights to appeal. If you choose to continue an action we have told you is illegal, we have lots of means to make
132 sure you comply.

133
134 Lisa Stuckey: If you are doing a Class II, maybe I or II, you have to get a permit for Animal Services for each of
135 those and then for Class II, you have to get your Class B Special Use Permit. You have to get the Class II kennel
136 permit within 30 days of occupancy, would that be 30 within the start of the kennel? Can you open it up and 28
137 days later go get your permit?

138
139 Michael Harvey: Animal Services provides initial feedback on the proposal and they have met with the applicant
140 and looked over the plan. We have documentation to submit to the Board of Adjustment but they can't do final
141 approval until they make application and submit the building plans. They can't submit the building plans until they
142 have a building permit submitted by the inspections department stating this meets building code so we usually allow
143 that grace period for Animal Services to issue the permit on a legally issued kennel operation.

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145 Lisa Stuckey: Does that mean you can have the dogs there before you are issued the permit?

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147 Michael Harvey: The way it is currently worded and the way Animal Services regulations are worded that is a
148 correct statement.

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150 Lisa Stuckey: Is that a good idea?

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152 Michael Harvey: One of the reasons is that Animal Services gives you 30 days to get the final permit.

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154 Tony Blake: When I spoke to the kennel owner where we are, he said he felt there was a fair amount of confusion
155 between the state regulations and the county regulations but I think what you are describing is the case where
156 someone has a lot of dogs and someone decides to convert to a legitimate kennel operation.

157
158 Pete Hallenbeck: Didn't you say part of those 30 days was to avoid the time crunch?

159
160 Michael Harvey: Yes. And Animal Services has to sign off on the building permit to say that it meets their code
161 before a building permit is issued.

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163 Tony Blake: But doesn't the state have to come out as well?
164
165 Michael Harvey: I don't know the answer to that question because it is not a provision of the UDO.
166
167 Lisa Stuckey: We wouldn't let people move into a house or building until all the approvals are finished.
168
169 Michael Harvey: If they get a Certificate of Occupancy and Animal Services signs off on the issuance of that permit
170 and it just takes 30 days to get the paperwork done to say you have your permit, I don't see that it is a hardship
171 since Animal Services has been involved in the process from day one approving the kennel operation. You have to
172 get the Class B Special Use Permit before you can initiate construction.
173
174 Herman Staats: Relating to the seasonal housing of hunting dogs, is that considered a kennel operation?
175
176 Michael Harvey: If you have over 20 animals, you are technically in violation of the code as it is written.
177
178 Herman Staats: If it is fewer than 20?
179
180 Michael Harvey: If you are keeping them for competition, show or sport then you have to have a Class I Kennel
181 Permit.
182
183 Larry Wright: If you have a research facility and they are so you can have two types of research facilities, one
184 operated by the state and one by the pharmaceutical company for profit, how is that handled?
185
186 Michael Harvey: A research facility is an independent land use category in the table of permitted uses. The
187 animals are not being transferred, moved in or changed out for commercial endeavors but experimented on.
188
189 Pete Hallenbeck: What has been the biggest problem when people come in to get kennels?
190
191 Michael Harvey: Adjacent property owner reaction.
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193 Pete Hallenbeck: Historically, is that main concern noise?
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195 Michael Harvey: Noise plays a component piece, diminished land value, traffic, not in my back yard.
196
197 Pete Hallenbeck: With the added feature of barking dogs. Barking dogs are an interesting one because the noise
198 technically doesn't meet the criteria for the noise ordinances in terms of how many decibels, it is not a constant
199 noise. The problem is that it is still annoying and the answer may be if the BOCC wants to deal with a barking dog
200 ordinance.
201
202 Michael Harvey: Animals Services has regulations governing barking but the comment is will there be an animal
203 services officer available at 2:00 a.m. in the morning.
204
205 Pete Hallenbeck: The rules are in place but you really need a way to enforce them at 2:00 a.m.
206
207 Rachel Hawkins: Is it because of the kennel at New Hope that these questions come up?
208
209 Michael Harvey: There are several kennels.
210
211 Rachel Hawkins: What do people want us to do?
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213 Michael Harvey: Deny them.
214
215 Rachel Hawkins: But they are already there.
216

217 Michael Harvey: All the cases we have had so far, the adjacent property owners have failed to submit just cause.

218
219 Johnny Randall: Is there an odor component to this?

220
221 Michael Harvey: The UDO makes some reference to air pollution but no smell provisions.

222
223 Larry Wright: I have served on several animal use committees in conjunction with my work at the NIH and these
224 facilities are certified and are subject to be recertified by the U.S. Department of Agriculture. I am not sure what the
225 source of the odor is but these boards that certify them and many are well established with veterinary schools so it
226 is a certification process. PETA is there all the time. It has been very gratifying to see the tight control and
227 safeguarding the animals being used in research.

228
229 Maxecine Mitchell: Did you find anything that anyone is doing that is better than what we have in place?

230
231 Michael Harvey: I wouldn't say it is better or worse but it works better for them.

232
233 Maxecine Mitchell: Dogs are going to make noise but does our regulation muffle the sound?

234
235 Michael Harvey: The last two applications we had, there was an acoustical engineer brought out to talk about how
236 the applicant would construct the structure to address that issue and on the New Hope Kennel is they don't like it
237 but they don't hear the dogs.

238
239 Pete Hallenbeck: It is interesting to note that Chapel Hill's answer is to have the kennels in non-residential areas
240 and Carrboro's answer is to sound proof.

241
242 Michael Harvey: In Carrboro, it is approved through the same process that we use.

243
244 Rachel Hawkins: What are we doing with this information?

245
246 Pete Hallenbeck: Receive the update and provide feedback.

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248 Michael Harvey: At some point, we are going back to the elected officials and provide them with your comments
249 and comments from animal service and find out what they want to do. The ones that are already there have
250 existing special use permits.

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253 **Agenda Item 9: Implementation Bridge Priorities** – To discuss Planning Board priorities for work to be
254 started and/or accomplished in 2013. At the November 7, 2012 regular meeting when the
255 work plan was acted upon, the Planning Board Chair and Vice-Chair asked that this be a
256 discussion item for the January 9, 2013 agenda
257 **Presenter:** None, discussion only

258
259 Pete Hallenbeck: We have heard Planning Board members say they have opinions about things they would like to
260 change. I would like to get information from you about things you would like to address. I would like to look at some
261 of the parts of the county ordinance that would have an impact on emergency services delivery. Does anyone have
262 an item they would like to discuss?

263
264 Tony Blake: I have become interested in transit oriented development and how it fits.

265
266 Pete Hallenbeck: I would like to reference Attachment 2 which is the work that goes on the planning department to
267 define things. One of the ongoing tasks is to take this list and come up with a priority and there are a number of
268 topics already listed in the implementation bridge that are going to be working into this document.

269

270 Larry Wright: There are a couple of areas that our ordinance doesn't address. One is adult entertainment and the
271 other is gaming. Even though gaming looks like it is not doing well that doesn't mean in the future it will not be legal.
272 I think we should identify that before something comes up.

273
274 Pete Hallenbeck: That makes sense. Another item on my list is home offices. The current ordinance is that you can
275 have two people. I think if you are in a rural area, you could have three or four people and not adversely impact the
276 community. How can we balance that against with making sure you don't annoy your neighbors?

277
278 Johnny Randall: There is mention of protection of natural resources but a lot of times it doesn't say what that means.
279 What does it mean to protect a natural area?

280
281 Tony Blake: I also have an interest in the regulations for rural economic development areas.

282
283 Andrea Rohrbacher: The home business is also of interest to me. I am also interested in the outdoor events and
284 mass gatherings and some definitions to make it clear to citizens if they are having an event, they need a permit with
285 specifics.

286
287 Pete Hallenbeck: The home business issue came up during the Efland Small Area Plan; it was contrasting someone
288 wanting to open a beauty salon versus an architect that may have a client show up occasionally.

289
290 Craig Benedict: The interest on the existing goals the county has from 2009 did mention the protection and
291 promotion of Economic Development Zones and how an adult entertainment establishment in the wrong area next to
292 one of our 400 acre economic development zones would kill it. Part of our research is; are there any external issues
293 that could affect the economic development zones we have. In the goals on page 23, I put code enforcement in
294 Economic Development areas (i.e. abandoned mobile homes or derelict houses), is there a way to bolster our code
295 enforcement efforts. We have limitations at the county level but for the protection of the work we have been doing
296 over the last few years, the image of those areas is a determining factor.

297
298 Larry Wright: I would like to support that to look into the nuisance ordinance and protect these economic
299 development districts.

300
301 Pete Hallenbeck: The BOCC has a retreat on February 1 so if there are things you are interested in, email them to
302 me and I will get with staff.

303
304 Lisa Stuckey: The issues that were raised by both of the towns on page 51, 52, etc....

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306 Perdita Holtz: Those have been resolved.

307
308 Lisa Stuckey: I am also interested in the home occupations. I was on the Chapel Hill committee when they passed
309 theirs.

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311 Rachel Hawkins: What does theirs include?

312
313 Lisa Stuckey: It sounds more liberal than what the county has. We looked at the same issues impacts on neighbors.
314 The issue arose for Chapel Hill in a subdivision where there were home businesses with a lot of people coming and
315 going all the time with big trucks, etc. I think Chapel Hill would be a good one to look at.

316
317 Craig Benedict: I would like to review some of the BOCC goals adopted in 2009. (Craig will forward a copy to the
318 Board).

319
320 Johnny Randall: Another issue is less solid waste per capita with cost effective and environmentally responsible
321 disposal and management. That is a huge issue in Orange County since we are going to export out solid waste.
322 There is so much education that needs to be done and reducing solid waste is one of the easiest things to do.

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324 Tony Blake: Are you suggesting regulating the private trash haulers?

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326 Johnny Randall: I am thinking of changing the waste stream paradigm that a majority of people live by.

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

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331 a) Board of Adjustment

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333 Larry Wright: We met with the attorneys. Protect Rural Orange wanted UNC to go through the special use permit
334 process. The Board of Adjustment decided against that. We met with just the attorneys and went through the
335 minutes and consolidated the findings. They were codified and submitted.

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337 b) Orange Unified Transportation

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339 Alan Campbell: We had new members added so it looks like we have some renewed energy and interest from
340 Commissioners. Basically we had a standard meeting and reviewed the progress of various road projects and our
341 own wish list of work items for the coming year.

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344 **AGENDA ITEM 11: ADJOURNMENT**

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346 **MOTION:** made by Johnny Randall to adjourn. Seconded by Lisa Stuckey.

347 **VOTE: UNANIMOUS**

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Pete Hallenbeck, Chair