

MINUTES
ORANGE COUNTY PLANNING BOARD
APRIL 3, 2013
REGULAR MEETING

MEMBERS PRESENT: Peter Hallenbeck (Chair), Cheeks Township Representative; Lisa Stuckey, Chapel Hill Township Representative; Buddy Hartley, Little River Township Representative; Tony Blake, Bingham Township Representative; Maxecine Mitchell, At-Large Bingham Township; Herman Staats, At-Large, Cedar Grove Township;

MEMBERS ABSENT: Andrea Rohrbacher, At-Large Chapel Hill Township; Dawn Brezina, Eno Township Representative; Johnny Randall, At-Large Chapel Hill Township; Rachel Hawkins, Hillsborough Township Representative; Alan Campbell, Cedar Grove Township Representative

STAFF PRESENT: Michael Harvey, Current Planning Supervisor; Tina Love, Administrative Assistant II

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS
a) Planning Calendar for March and April
b) Interest Areas Raised by Planning Board Members at January 9, 2013 Meeting

AGENDA ITEM 3: APPROVAL OF MINUTES
MARCH 6, 2013

MOTION by Tony Blake to approve the March 6, 2013 Planning Board minutes. Seconded by Lisa Stuckey.
VOTE: UNANIMOUS

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA

AGENDA ITEM 5: PUBLIC CHARGE

Introduction to the Public Charge

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

PUBLIC CHARGE

The Planning Board pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chair will ask the offending member to leave the meeting until that individual

54 regains personal control. Should decorum fail to be restored, the Chair will recess the meeting
55 until such time that a genuine commitment to this public charge is observed.
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58 **AGENDA ITEM 6: CHAIR COMMENTS**

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60 Pete Hallenbeck: In your packet we had the summary of things people had talked about regarding directions to go
61 for the UDO and the Planning Board and I also enclosed 3 pages on what I have been thinking about with regard to
62 emergency services and home occupations. I don't really want to discuss those tonight. I put those in there so
63 you could see an example of what I'd like to see from members. We have the first step, things we're interested in,
64 I'd like as a second step to get more specific things. What I am purposing is that I'll take all that and condense it in
65 and then we can all read it and when it's time to discuss it, we have input from everyone and we've read it in
66 advance. It should be a wonderful discussion.

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68 Lisa Stuckey: Are you going to send an email asking for us to submit it.

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70 Pete Hallenbeck: Yes, I'll do that.

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73 **Agenda Item 7: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT** – To make a recommendation to
74 the BOCC on government-initiated amendments to the text of the UDO to modify existing
75 language to provide additional reference to land disturbance thresholds related to stormwater
76 management standards. This item was heard at the February 25, 2013 quarterly public
77 hearing and was discussed by the Planning Board at its March 6 meeting.
78 **Presenter:** Michael Harvey, Current Planning Supervisor

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81 Michael Harvey: As you will recall last month we began looking at a proposed UDO text amendment where we
82 were wrestling with the notion of providing appropriate reference to recently approved stormwater management
83 guidelines. In doing this we identified several options and we were directed by the elected officials to get input from
84 OWASA. At last month's meeting there was a unanimous consensus amongst the Planning Board that option C
85 was the preferred method. This option has been incorporated into the proposed amendment package you are
86 reviewing this evening and has staff approval as well. What will happen now when you develop your property for a
87 residential use, the way this now reads, is if you reach the stormwater land disturbance thresholds that we have
88 provided on page 18 of your packet, you will have to produce a site specific development plan. The Ordinance also
89 now contains language indicating you are going to show us everything on that one site specific development plan
90 so that erosion control and current planning are looking at the same document. What we're hoping also is that
91 health is going to be looking at that same document so the three agencies that are clearly concerned about land
92 development and environmental protection are all going to be working from the same central document. We have
93 eliminated the 6% requirement, with respect to serving as a trigger for the submission of a professionally prepared
94 site plan, all together. Our opinion on the validity of this recommendation is bolstered by the fact that in attachment
95 3 of your packet, we have a letter from OWASA basically saying we don't care.

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97 Michael Harvey: A couple of clarifying points, as you will recall this doesn't change impervious surface limits. One
98 of the concerns expressed by Commissioner Gordon at the quarterly public hearing is that we are going to be
99 lessening the protections for the University Lake both Critical and Protected overlay districts. This is simply not
100 true. 6% is still the impervious surface limit for this area of the County. There was a question at the last Planning
101 Board Meeting, what happens if you get your plot plan from an applicant and you think it's over its impervious
102 surface allotment. Staff can still require, per the UDO, a formally prepared site plan. We have done that on a few
103 occasions in Orange County even in the less protected watersheds. From our standpoint this is a reasonable
104 compromise, it provides the link we were looking for in terms of referring people to the stormwater thresholds. We
105 are asking the Board to complete its review, you have OWASA's statement and the ordinance amendment has
106 been rewritten to incorporate option c as suggested by the Board.

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Maxecine Mitchell: So you're saying that the cutting of trees is part of the impervious surface?

Michael Harvey: That would be part of land disturbance, as we discussed at the quarterly public hearing when Commissioner Dorosin asked the same question but the simple act of cutting a tree does not mean you are adding impervious surface area to your property. Once you built a house, you build a driveway (gravel), these actions represent the placement of impervious surface area on your property which for the majority of the County is limited based on your location within a Watershed Protection Overlay District. Say you have a wooded area and you clear that for your septic field, you clear additional area for view shed, to support the development of your house, that is land disturbance activities. What this ordinance amendment does is make reference to existing standards that if you exceed this level of land disturbance, you have to do the formal stormwater plan and we will require the site specific development plan with it.

Pete Hallenbeck: So what we're looking at here is these disturbance limits that we're reviewing on page 18 is that disturbance defined as both the impervious surface and ground that you tear up for some reason.

Herman Staats: So that I understand, cutting timber is not land disturbance if you don't dig up the roots or bulldoze?

Michael Harvey: Cutting timber can be in certain circumstances, as defined by erosion control, can be land disturbance. There are situations where it is exempt because it is either a bona fide farm or if you're not disturbing the ground cover. In theory yes, that is true but once you disturb the ground cover then it becomes land disturbance.

Pete Hallenbeck: Commissioner McKee was curious how this would impact someone who wanted to build a house for parents or children on their land and I've had some emails and worked through some examples. My take is that there is no simple way to sum up the impact of this and say as long as it's only this size house, you're good because the process requires all these different aspects. What does house disturbance footprint, which is going to be an impervious surface plus some area of around it, the driveway footprint, the septic tank, other areas. Also having gone through the process of having built a house in the county, there is a bunch of stuff going on, and my experience was that the sooner you engage the planning department with what you're doing the better because they can walk you through the rules and this is all part of the process of designing what you're doing. I think the best you can do to explain it to people is just make them aware of this process.

Herman Staats: I remember Commissioner McKee was asking about what someone could do if they got a piece of land, the recommendation that we're making is based on the state law, is that right?

Michael Harvey: The recommendation you're making is, instead of having the existing standard which says everybody in University Lake has to give you a professionally prepared site plan no matter what, we are basically linking the submission of that site plan to the stormwater land disturbance thresholds we adopted last year. That to us is a universal standard. No matter what we do this is here. It's our position, and you have agreed with it, there's no need to have multiple caveats in the code which is what we have now.

Tony Blake: The County always has the sufficient cause to ask for one (site plan).

Michael Harvey: Yes, we do what is called a site assessment now for every project typically before they even apply for a building permit. Site assessment is designed to identify all environmental factors and issues on any given parcel of property. Its main purpose is to identify for health, in advance of their applying for a septic permit, what areas can and cannot support a septic system. We use that process, that document that we produce using aerial photography to identify these types of issues.

Pete Hallenbeck: My experience has been that if you can get the idea across to people to go talk to the County first you can avoid a lot of headaches and they will help you understand these Ordinances and help you work through the numbers and look at the options.

162 Michael Harvey: We've had a lot of success with the site assessment. People don't like to do it but when they find
163 that its free and find that we identify issues before they go spending money, they seem to be somewhat happier but
164 they still don't like the notion, it ultimately down to 'it's my property, I'll do what I want' and unfortunately that's not
165 viable opinion to have in an age when zoning and land use issues are at the forefront of regulation.

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167 Lisa Stuckey: I can envision a person who is under the limits and goes forward and then slowly but surely they
168 landscape more and more over years.

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170 Michael Harvey: It's not a cumulative issue. Impervious surface is a cumulative issue but land disturbance is not.
171 Having said that if you are required to adhere to an approved stormwater management plan and disturb property
172 invalidating that plan, you will have to take appropriate measures to address compliance with our regulations.

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174 Pete Hallenbeck: There's the incremental project where you add impervious surface and there's the incremental
175 project where all the disturbed area from your previous project is grown over, has grass, is good and you're
176 disturbing a new area and those are different things.

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178 Michael Harvey: Right, you may recall when Terry Hackett appeared before you last April, different types of land
179 cover have different levels of credit for stormwater. A forest has the best and grass is not bad but it is the worst you
180 can have because it is just grassy field. As we continue to move forward, these regulations are going to become
181 somewhat more cumbersome. There are going to be more impacts on property owners and ability to develop
182 property and unfortunately this is the direction we are headed.

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184 **MOTION:** made by Tony Blake to accept the Planning Department's recommendation for Option C. Seconded by
185 Buddy Hartley.

186 **VOTE: UNANIMOUS**

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189 **AGENDA ITEM 8: COMMITTEE/ADVISORY BOARD REPORTS**

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191 a) Board of Adjustment
192 b) Orange Unified Transportation

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194 Members and staff had some general discussion regarding cell towers.

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197 **AGENDA ITEM 9: ADJOURNMENT**

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199 **MOTION:** made by Lisa Stuckey to adjourn. Seconded by Tony Blake.

200 **VOTE: UNANIMOUS**

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Pete Hallenbeck, Chair