

MINUTES
ORANGE COUNTY PLANNING BOARD
MAY 5, 2010
REGULAR MEETING

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MEMBERS PRESENT: Brian Crawford (Chair), At-Large, Eno Township; Judith Wegner (Vice-Chair), Bingham Township Representative; Samantha Cabe, Chapel Hill Township Representative; Larry Wright, At-Large, Cedar Grove Township; Tommy McNeill, Eno Township Representative; Mary Bobbitt-Cooke, Cheek Township Representative; Peter Hallenbeck, At-Large, Cheeks Township; Earl McKee, Little River Township Representative; May Becker, At-Large Chapel Hill Township; Mark Marcoplos, At-Large, Bingham Township

MEMBERS ABSENT: Jeffrey Schmitt, Cedar Grove Township Representative; Rachel Hawkins, Hillsborough Township Representative

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

OTHERS PRESENT: Allan Rosen

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

AGENDA ITEM 2: INFORMATIONAL ITEMS
a) Next Regular Planning Board meeting scheduled for Wednesday, June 2, 2010
b) Planning Calendar for May and June

AGENDA ITEM 3: APPROVAL OF MINUTES

MOTION made by Earl McKee to approve the April 7, 2010 minutes. Seconded by Mark Marcoplos.
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 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.

60 AGENDA ITEM 6: CHAIR COMMENTS

61
62 Brian Crawford: Judith, we are glad you are back and we are sorry for your loss. Earl, congratulations to you with a well run
63 campaign.
64

65 AGENDA ITEM 7: RECOMMENDATION FOR PLANNING BOARD ON BOARD OF ADJUSTMENT (BOA):
66 To make a recommendation to the BOCC for appointment consideration.
67 *Presenter: Michael Harvey, Planner III*
68

69 Michael Harvey: Good Evening, according to the Orange County Zoning Ordinance, there is a requirement to have a Planning
70 Board representative serve on the Board of Adjustment (BOA). The current Planning Board representative is Jeff Schmitt who is
71 rotating off and unable to be reappointed either to the Planning Board or to the Board of Adjustment at this time.
72

73 We are looking for a volunteer and a recommendation to the County Commissioners for the appointment of a Planning Board
74 member to serve on the Board of Adjustment.
75

76 For those who are unfamiliar, the Board of Adjustment is a quasi-judicial body appointed by the County Commissioners whose
77 responsibility is to hear various requests including variances, with respect to modification of the Orange County Zoning
78 Ordinance provisions, Special Use Permits (SUPs), specifically Class B SUPs as articulated within Section 4.3 Table of
79 Permitted Uses, and answer/review interpretation requests. An example of an interpretation request recently was an individual
80 sought to overturn staff's decision on allowing mobile food vendors in the County's planning jurisdiction.
81

82 The BOA meets on an as needed basis and does not have a mandatory monthly meeting requirement. In my tenure with the
83 County there has usually been 8 meetings a year. Special Use applications, variance applications, or appeals. The Board
84 functions a little differently than the Planning Board, as I indicated, it's a quasi-judicial body meaning it functions one step below
85 a court proceeding. It renders decisions based on sworn testimony and evidence presented during a public hearing and it
86 renders decisions consistent with testimony offered during the hearing.. So, I would like to open it to the Board to see if there are
87 any additional questions on membership and if anyone has a recommendation.
88

89 Brian Crawford: I would like to volunteer Larry Wright.

90
91 Mark Marcoplos: Would they make decisions?
92

93 Michael Harvey: The Board of Adjustments makes decisions that are potentially reviewable by the Orange County Superior
94 Court on appeal from 30 days of the decision.
95

96 Mark Marcoplos: Typically their decisions stand.
97

98 Michael Harvey: Orange County has not lost an appeal as of yet.
99

100 Mark Marcoplos: Generally speaking?
101

102 Michael Harvey: Yes. I should also add that the Board of Adjustment is subject to appeal by the Board of County
103 Commissioners.
104

105 Samantha Cabe: The County attorney attends the meetings.
106

107 Michael Harvey: The County attorney can serve as the staff attorney for the Board. The County has, at times, been required to
108 seek third party council to represent the Board or staff.
109

110 Brian Crawford: Any other questions? Any other potential volunteers? Larry volunteered, are we willing to accept that? Yes.
111

112 Michael Harvey: The recommendation will be forwarded to the Board of County Commissioners.
113
114

115 AGENDA ITEM 8: REVIEW OF DRAFT UNIFIED DEVELOPMENT ORDINANCE
116 To continue review of the draft Subdivision section of the draft Unified Development Ordinance.
117 *Presenter: Michael Harvey, Planner III*
118

119 Michael Harvey: We want to continue our review of the packet submitted last month and allow you to ask questions about the
120 ordinance in general or request clarification of the existing review process or interpretation of various subdivision regulations.
121 We still encourage you to submit comments and questions via email to staff. Staff has tried to simplify the design standards by
122 eliminating redundancy and clarify language to be more explicit. This is also an opportunity to ask questions about the current
123 process.

124
125 Brian Crawford: Do you remember where we left off?
126

127 Michael Harvey: We had basically concluded our review of Section 50-62D, Lot Size, Land Stability and Density. We had began
128 to talk about the road standard issues when we had a lengthy discussion about eliminating existing standards that represented a
129 duplication of effort, i.e., by saying here are the public standards, enforced by NC DOT, and here is a list of the minimum
130 standards that we will require. The concern was that was that if DOT were to amend their standards, we would have to continue
131 to amend our ordinance.
132

133 The Board agreed that there was no need to duplicate what is and what is no a public road from a design standpoint. There was
134 a question under Lot Size, Land Stability and Density of Section 50-62D of the proposed UDO. There was some question about
135 what we were combining in this section. In the current Zoning Ordinance, minimum lot size is calculated and required within
136 Article 5. For example, the rural buffer zoning district required is two acres is the minimum lot size. The current ordinance
137 stipulates that the minimum lot size required is based the zoning designation. That is not technically true because there are
138 many factors that determine a minimum required lot size for any development. If you utilize a prior road that is maintained by the
139 property owners, the requirement is that you have to double the lot size or the zoned rural buffer has to go to three acres.
140

141 Samantha Cabe: What is the purpose of the penalty for having a private road?
142

143 Michael Harvey: The honest answer to that question can be found within the explanation of the private road standards in the
144 subdivision ordinance. In the subdivision regulations, you will go back to Orange County Private Road Standards, Appendix A
145 and you have four paragraphs regarding the Board of County Commissioners philosophical stance on private roads. Within this
146 section, existing language stipulates that private roads are not desired and are a privilege not a right. If you want to go to a
147 private road, the County will seek development limitations that would, in context of this ordinance, preserve a greater degree of
148 open distance and preserve the rural esthetic of the County.
149

150 Samantha Cabe: How does that match up with, if you put a public road in there, it would be wider and more developed than a
151 private road. To me, that is destroying all those things. If you mow out 60 foot right of way with drainage ditches and makes it a
152 Class A public or up to DOT standards, how is that preserving those things?
153

154 Michael Harvey: You have to remember with the private road standards the County is looking for a tradeoff. With a public road,
155 you don't have the issues of maintenance and ownership issues because it is maintained by DOT, but you do have the removal
156 of a significant amount of vegetation to properly install. In allowing a private road, there may be instances where a public road
157 isn't reasonable and would not be environmentally responsible. If you go back the private road standards in the subdivision
158 ordinance, one of the ways to justify a private road is that the topography of the land is so bad that putting a public road is not
159 practical. The trade off for the County in encouraging a doubling of a lot size as I've already articulated, reserving those open
160 vistas, having more land area to preserve more open space. Another argument is that if we have to make the road public, there
161 is more land area to incorporate additional right of way, for ditches, etc. and not make structures that have been built
162 nonconforming.
163

164 Larry Wright: When you look at the 2030 Comprehensive Plan, there is quite a lot of talk about mixed use development, bicycle
165 trails, connectivity, discourage urban sprawl, in chapters, one, three and four, Once you get to the ordinances, how does this,
166 the 2030 Comprehensive Plan, how it is communicated in the ordinances, if at all.
167

168 Michael Harvey: The obvious answer I will give is the Orange County Zoning Ordinance is the implementation tool of the
169 Comprehensive Plan. In Article 1 and Article 2, there are references to compliance with the standards, design elements and
170 goals of the Comprehensive Plan. When we start talking about the myriad of different opportunities for mixed use and
171 connectivity, etc, what you have to remember is that such development is slated to occur within the 10 to 20 year transition
172 zones, which are primarily located along Interstate 70 running throughout the County.
173

174 We have designated in the Comprehensive Plan where we want to concentrate mixed use and urban intense development. The
175 argument is that in rural areas of the County, you want to preserve that existing rural aesthetic. If you go back to the late 80s,
176 and the 1981 Comprehensive Plan, the goal was to discourage hyper urban development within the rural designated areas of the

177 County and encourage private roads and smaller developments that would preserve the rural esthetic and preserve the
178 development you are talking about.
179

180 Larry Wright: When you read the Comprehensive Plan, there are some items which calls for attention of changes in the
181 ordinance and I really don't see as we go through this, how we are trying to start to implement the Comprehensive Plan in our
182 regulations. That is just my opinion.
183

184 Michael Harvey: At a certain level, I am sorry you have that opinion. I think the staff is beginning to implement the
185 Comprehensive plan. As we have discussed with the UDO, the initial focus is repackaging and recollection of the existing
186 regulations and to eliminate a lot of the existing redundancies to make it an easier to understand process. I think the existing
187 developing philosophy represented in the Orange County Zoning Ordinance and Subdivision regulations is fairly representative
188 of where we want to go recognizing that additional changes as the Board of County Commissioners identifies will be necessary
189 in the future.
190

191 I think Land Use issues will be addressed at the next stage of UDO development. As the Board is aware, the County has
192 engaged in several small area plan projects to begin a comprehensive assessment of land uses issues within the County. For
193 example we have the Efland Mebane Small Area Plan that focused on land use and implementation strategies in the Efland
194 Core. With the Eno Economic Development Plan, a plan produced in cooperation with the Economic Development Commission,
195 staff identified specific industries for the district as well as identified locations where we want specific industries to go.
196

197 I think as we start looking at the implementation of the Comprehensive Plan, this is step one of the process that will take up to
198 2030.
199

200 Mark Marcolpos: Back the road question Samantha asked, why twice seems a little random. I am thinking about the future and
201 an economy I don't think will ever recover and we will need houses for people and they will need to be close together, not that we
202 don't have open space around these clusters almost like co-housing where they might share a garden and some facilities. A
203 private road would be the least expensive for eight to ten people, so I am having a hard time understanding. What problems
204 does that create? Can't the County keep tabs on the roads?
205

206 Michael Harvey: The County does keep tabs on development that is occurring. We do not have enforcement capabilities with
207 certain issues on private roads and it is not our interest to do so. From a policy standpoint, the Board of County Commissioners
208 has determined that a private road is to be maintained by residents residing on the road and that certain design elements be
209 incorporated into its development.
210

211 The one central mandated criterion for justifying a private road is the doubling of minimum lot sizes and setback requirements.
212 There are other criteria that you have to utilize to prove you can meet the necessary design requirements.
213

214 If this Board wants the Board of County Commissioners to revisit the private road justification process, you can make that
215 recommendation. Staff will continue to incorporate the design standards that are articulated in the subdivision ordinance.
216

217 Earl McKee: I am not sure whether that you are concerned that two documents will end up in conflict or that the regulations are
218 not following the intent of the 2030 plan.
219

220 Larry Wright: I was wondering when, as we go through these, that we start addressing changes to align with the 2030
221 Comprehensive Plan. I thought that if we are going through these steps, why don't we take these in an incremental way so we
222 are moving toward the goals of the Comprehensive Plan?
223

224 Samantha Cabe: It was my understanding that the main objective of what we are doing now is to try to get all these pieces of
225 ordinances everywhere to make sure they are properly cross-reference. It is difficult to make substantive changes as you do that.
226

227 Larry Wright: I understand that but a lot of the discussion last time could have been reduced and tailored had we had the
228 Comprehensive Plan in mind.
229

230 Judith Wegner: I understand the goal at the moment is to consolidate and put into different format but if we have a sense of that
231 there's need to visit something, and this would be one worth revisiting particularly since you reference back to the 80s. I'm not
232 sure that what I read makes a lot of sense in light of where we are today, at least be able to say can in the minutes or in a
233 request when everything does get moved up to the Board of County Commissioners that we have running list of things we would
234 like to revisit to do. Otherwise, by the time we come back to it, it may be difficult to remember.
235

236 Brian Crawford: Mark, I have not thought about the private road issue and the way you are putting it forward tonight. I have
237 always looked at it from a maintenance standpoint but as a strategy for more affordable housing, it may be interesting to
238 bookmark so we know we need to come back to this.

239
240 Judith Wegner: The things I worry about that if they're not built to spec to allow for fire equipment in then down the road someone
241 is going to ask to go back and revisit it more that would likely be the case if there is to going to be something else connecting
242 onto it. Smaller subdivision where there won't be a corridor going through then it is actually saying the cost of maintaining will
243 not be on the government it will be on the property owner. If we said we have the idea that there might be the following
244 considerations to be thought about, you could at least leave a footprint to remind people.

245
246 Michael Harvey: That is the whole purpose of the annotated outline that will be produced as part of this process. This document
247 will identify future work that will need to be done for the UDO in implementing the goals and policies of the Comprehensive Plan.

248
249 Judith Wegner: As I understood it, the consultant will help on that, maybe we get a slice of it when that is developed. It seems to
250 me you could put this item on the annotated outline, I don't think we should give over the consultant what will be on the
251 annotated outline. It seems that it would be useful to staff not have us fighting the effort that you're trying to make to move
252 ahead but instead have some bucket we can put the topic in with our best judgment with a limited amount of time.

253
254 Samantha Cabe: It may be helpful, before this goes to the Board of County Commissioners for this Board to prioritize those
255 items that we believe need to be looked at.

256
257 Judith Wegner: If we are going through this page by page it may be that issues about affordability plus the question of the
258 burden, all those things would be protected somewhere.

259
260 Michael Harvey: At some point in adopting the UDO this Board is obligated to make a recommendation and provide the Board of
261 County Commissioners with guidance that you believe is essential and necessary in moving forward. You will be recommending
262 the annotated outline to identify future needs.

263
264 Brian Crawford: Does everyone look at this issue about lot size and private roads as something the Planning Board should look
265 at as a Board and discuss and make a recommendation or make notes or some sort of legend that these are some of the issues
266 we can come across. Do we need to have a substantive discussion on this as a Board or is it enough to say we are concerned
267 about it and put it in the notes to the Board of County Commissioners?

268
269 **MOTION:** Judith Wegner made a motion that as part of tonight's minutes that we establish a category of Board proposals for future
270 action relating to topics that are pressing. A comprehensive re-assessment of the existing private road standards should be part
271 of that list. Among the questions to be considered are the impact of existing private road policies on affordability of housing,
272 perpetual maintenance, sustainability, environmental concerns, safety and emergency access concerns. We think that
273 tentatively there may be some outdated dimensions that should be reviewed. Seconded by Samantha Cabe:

274
275 Larry Wright: Friendly amendment to insert emergency after safety

276
277 Judith Wegner: Safety and emergency access.

278
279 **VOTE:** Unanimous

280
281 Pete Hallenbeck: What would be the means for implementing this and are the annotated notes, would they meet your
282 requirements?

283
284 Judith Wegner: I would say we adopt the motion as part of the minutes of tonight's meeting and I tried to frame it that any future
285 motion of similar kind also be pulled up at the end of this in due process and put together in some way that we could review them
286 all comprehensively before it goes forward. At the very least we have the sense of a statement in the sense of the Board that if
287 we want to come back and we have these concerns about updating it.

288
289 Pete Hallenbeck: So at this point the motion is simply saying that this need and not trying to go any further.

290
291 Judith Wegner: That is correct.

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293 Mary Bobbitt-Cooke: My sense is that most of the private roads dead end. They don't serve the purpose for connectivity. Are
294 we talking about those roads that serve the County as interconnectivity or also the dead end private roads?

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Judith Wegner: I would say that any private roads but one of the considerations that would influence the ultimate policy statement would be that if it is supposed to provide connecting access that it would have to be wider and certain other characteristics to connect for safety but not trying to suggest that. We may end up with different categories of roads depending on the circumstance.

Samantha Cabe: You don't have to apply for a justification if it is an exempt subdivision as long as it is under a certain number of lots, is that correct?

Michael Harvey: Actually, exempt subdivisions doesn't come into play into this discussion at all. As the Board may already be aware, there are four categories of exempt subdivisions, the most common is the 10 acre lot subdivision where a large tract of land is subdivided into new lots that are not less than 10 acres in area. State law says it such divisions of property are not subject to local review or approval. If you have a 100 acre tract and someone wants to create ten, ten acre lots, it is not subject to our review.

Samantha Cabe: What is the minor subdivision?

Michael Harvey: With a minor subdivision, you are looking at five or fewer lots created from a larger tract within a given ten year period. So that we are all on the same page you need to remember that on a private road, three lots are fewer do not go through the justification process. The creation of four to five lots has to have the proposed private road justified. A major subdivision proposing a private road will to go through the normal subdivision review process.

Samantha Cabe: Thos are the situations I can anticipate Mark's analysis where now rural areas there are places with exempt subdivisions or little less than three lots on a private road but in the future there may be a need for what otherwise be a subdivision on a private road.

Michael Harvey: Remember that as we get into the major subdivision component, you are not looking at a requirement where 20 lots have to be three acres or four acres in size. The major subdivision review process stipulates that a developer can cluster lots and reduce average lot size but he or she are only going to be able to develop the number of lots that could normally be developed on a given parcel based on the proposed classification of road.

With minors, you are looking at doubling the required lot size in instances where a private road is proposed. A lot of the concerns I am hearing need to be directed to the Board of County Commissioners for future consideration.

Brian Crawford: This has been moved and seconded.

MOTION: Judith Wegner made a motion that as part of tonight's minutes that we establish a category of Board proposals for future action relating to topics that are impressing. Part two would be private road standards should be part of that list. Number three should be among the questions to be considered are the impact of existing private road policies on affordability of housing maintenance, sustainability, environmental concerns, safety and emergency access concerns. We think that tentatively there may be some outdated dimensions that should be reviewed. Seconded by Samantha Cabe:

VOTE: Unanimous

Earl McKee: We need to keep in mind when we start thinking of about these small subdivisions of two or three lots, that most of these are family situations and may break off property for their children. It is not a situation where someone buys property and breaks it down. In some cases, we do need to tighten these up because a lot of times, in a subdivision with a private road that was not being kept up, it became a very poor road but my concern is that we keep in mind that these extremely small subdivisions might need a little consideration because they are usually four family situations.

Judith Wegner: In that situation, I think that is really right, some of the question is how you deal with maintenance. Some of the family members may have more money than others.

Earl McKee: It can become a nightmare. We have done several subdivisions and we have it very tightly written on road maintenance but still when we finished it, I was done. I kept the road up and done maintenance until I sold the last lot then I handed over to the homeowner's association.

Larry Wright: If is built to DOT specifications....

354 Earl McKee: Mine were built a Class II and most of these private roads are built with Class II and then you go to a different
355 classification.
356

357 Michael Harvey: The Class B standard is the five or fewer lots where there is 12 feet of gravel travel way. Where a Class A road
358 is required, a developer must develop the road with 18 feet of gravel travel way. Once a developer gets to a project that is over
359 12 lots, the roadway has to be developed to a public road standard per NC DOT requirements.
360

361 Earl McKee: When you get to a certain size, you have different requirements.
362

363 Larry Wright: Schley Road was dirt and now it is paved, what class was that and how was it done?
364

365 Earl McKee: That is a state road.
366

367 Larry Wright: Was it always a state road even though it was gravel?
368

369 Earl McKee: Yes. I can't say definitely but I am sure it was.
370

371 Michael Harvey: When we read our ordinances, the overall goals when you get to certain level of service for a proposed
372 roadway, you have to go to public standards because the number of lots and amount of traffic that is generated.
373

374 Earl McKee: The most problems you encounter are on the minor subdivision.
375

376 Michael Harvey: You have made a motion and it passed. Obviously we will put a note in the annotated outline for the Board of
377 County Commissioners to revisit the private road justification issue but what precipitated all this discussion can be found on page
378 126 of your abstract.
379

380 Within existing zoning and subdivision regulations, we have multiple sections that dictate what constitutes the required size of a
381 lot and we are trying to encapsulate that in one central section.
382

383 How many here had an idea by reading the subdivision or zoning ordinance, that we actually have minimum lot size
384 requirements that have to be free of encumbrances, i.e. stream buffers, easements and roadway. There is a hidden provision in
385 Article 6 reflected in subsection B that you have to a minimum amount of lot area. The reason is we have that regulation is to
386 ensure room for septic, repair, and the house.
387

388 Without speaking for Earl, one of the frustrations that I hear from citizens is that every time you call the planning department they
389 find out that there are additional issues or standards that have to be dealt with as part of their project. All of this work is an
390 attempt to eliminate that confusion and feeling of frustration.
391

392 Another provision that has caused questions in the past is the density question, as detailed on page 127 of your packet. As you
393 know, we have watershed protection overlay districts that establishes allowable density in given areas of the County. One of the
394 complaints that we have heard from some citizens is that they have to read several documents and reference numerous
395 independent sections of each development code to find out what they need to do to have a lot, etc.
396

397 Mark Marcoplos: Nobody can argue that at all. I wonder if it is appropriate in the document to give a couple of examples of
398 reasons, will that be in the document.
399

400 Michael Harvey: That is not a bad idea but I am torn. When you look at several other County UDO's that have talking points and
401 examples in the text the problem is that the example may not properly articulate the regulations. Such graphics only serve to
402 further muddy the water.
403

404 Mark Marcoplos: Can't you say this is just an example?
405

406 Michael Harvey: I can say I have wrestled with it but I haven't really proposed that to the other planners. My only caveat is that
407 we should be very cautious because you don't want the example to create an interpretative question or create a need for an
408 interpretative review of the document.
409

410 Mark Marcoplos: What about a different color saying the statements in red are just examples.
411

412 Michael Harvey: If it is in the book, it is part of that document. Every determination is subject to appeal.

413
414 Mark Marcoplos: So we need a separate publication, UDO for Dummies.
415

416 Samantha Cabe: I do appreciate that concern and if examples are used they should be very thoroughly scrutinized by the
417 County attorney to make sure they accurately reflect the legal intent of the language, however, using number B2 as an example,
418 it would be helpful if you knew that was saying there should be a minimum unusable area of 30,000 square feet and give an
419 example of property and stream buffers are not part of that 30,000 square feet. If I were reading that I would not realize that my
420 stream buffer would not count.

421
422 Michael Harvey: One point of clarification is that we define usable area in the definition section. We have thought of is anytime
423 you have a term that means or has a specific meaning, you put it in italics or something to note that this term has a defined
424 meaning. Maybe the Board would like to recommend distinguishing terms in the UDO text that have meaning and let's start
425 looking at examples and involve the County attorney.

426
427 Larry Wright: So the definition would be in the glossary?
428

429 Michael Harvey: Yes. Right now, all the definitions for zoning are in Article 22. The definitions in subdivision zoning, economic
430 development, everywhere will go to the central section of Article 5 of the UDO.

431
432 Mary Bobbitt-Cooke: Did you pass out things to review for format and one was pictures of examples?
433

434 Michael Harvey: Yes. That was going to be article 8 which defined what setbacks were.
435

436 Mary Bobbitt-Cooke: What was decided?
437

438 Michael Harvey: We would use the table format by providing graphic examples.
439

440 Mary Bobbitt-Cooke: Is it applicable here?
441

442 Michael Harvey: We could try to do something similar if the Board thinks it would be helpful
443

444 Brian Crawford: Keep in mind the large size of this document.
445

446 Pete Hallenbeck: The way this document is created could help solve some of these problems. When we talk about italics that
447 means go look it up somewhere. A lot of our discussion appears to be things to make it more readable to people. There is part
448 of me that, don't take offense, is that we have a document created by planning geeks, which if you don't understand you have to
449 see a lawyer so we have somewhat lost the battle because of the complexity of all the things people want, of having an average
450 citizen pick up this book and read it to decide what they want. Mike, way back when we talked about the concept that a citizen
451 couldn't come into the planning department and sit down and say, can you help me. Part of this document being more organized
452 was to help them. In my mind if that was the goal that would change how much I would want to clutter up a document with
453 examples and pieces.

454
455 Samantha Cabe: I think it is imperative that we use and identify defined terms.
456

457 Brian Crawford: Let's move on.
458

459 Michael Harvey: Some of the other major changes we didn't get to last time are that as you look through the document, you will
460 note there a lot duplication within the existing subdivision ordinance. I will call your attention to the table of contents of the
461 Subdivision Ordinance, you will note under Requirement Minimum Design Standards there are references to school and public
462 facilities and interim development standards. Those two sections will be eliminated in there entirely because the same
463 regulations already appear within the Orange County Zoning Ordinance.
464

465 From my standpoint, there is no such thing as interim development standards. You have what is adopted and if the Board of
466 County Commissioners or Planning Board are doing a pending amendment, that amendment becomes law once it is adopted.
467

468 I would like to talk about the approval processes now.
469

470 May Becker: Where do you find most of these exemptions?
471

472 Michael Harvey: In your current ordinance, look at 6-B, Definition of Subdivision, there are four categories that are listed as
473 being exempt from subdivision review. One of staff's recommendations is that we eliminate an entire section of the definition
474 dealing with what a resultant lot should be like as such language is not referenced within NC General Statute.
475

476 Samantha Cabe: What language would this include?
477

478 Michael Harvey: A through F. That is the typical standard or language in the statute. A through F is not referenced in the
479 statute at all.
480

481 Mary Bobbitt-Cooke: I read the minutes from the last meeting and it seemed to me that Jeffrey Schmitt made a motion three
482 times and it was seconded twice by Larry Wright but never voted on to eliminate language, are you going over that now?
483

484 Michael Harvey: No. I am trying to make sure everyone is on the same page with me.
485

486 Mary Bobbitt-Cooke: What happened to that motion?
487

488 Larry Wright: A through F will be stricken?
489

490 Michael Harvey: We have recommended that, yes.
491

492 Earl McKee: It will be stricken due to the fact that there is no enabling legislation?
493

494 Michael Harvey: There is no reference in statute for these standards as we currently have them written.
495

496 Larry Wright: Does this help you when you go through A through F?
497

498 Samantha Cabe: I think the problem is that the statute reads that the resultant lots are equal to or exceed the standards of the
499 County. Subsections A through F was an attempt to explain what is considered necessary to meet the standards of the County
500 with respect to a developable lot.
501

502 Larry Wright: (to Samantha Cabe) If you have a client and you are going through this, is A through F helpful? Or does it mean
503 anything?
504

505 Samantha Cabe: It means something if it is in the ordinance.
506

507 Michael Harvey: We have recommending eliminating it because we want to make sure we are consistent with the statute.
508

509 Samantha Cabe: The short answer would be yes because you would know what the Planning Board is looking for to make sure
510 you were exempt.
511

512 Michael Harvey: If the Board has no other comments, I would like to briefly review the various subdivision review processes.
513

514 A minor is a subdivision of property proposing five or few lots over a ten year period.
515

516 A question came up during out initial review of this requirement that if you have a forty acre tract of land and someone comes in
517 and proposes the creation of four two acre lots and leaves the rest of the property as a fifth lot that is 32 acres in area, would that
518 be a minor subdivision. The answer is yes. After ten years, a property owner could come back to the County and propose
519 additional subdivision of the larger portion and it would still be a minor.
520

521 The minor is essentially for a mom/pop splitting up their property for small, rural condensed residential development. This
522 process is a staff driven process where an individual, not required, can submit a concept plan for our review and comment. Staff
523 reviews the concept plan at a development review committee meeting attended by representatives of Environmental Health,
524 ERCD, Erosion Control, County Attorney's office, NC DOT, and other County Departments.
525

526 What we are looking at is to try and answer the following questions: does the layout make sense, is there sufficient soil to support
527 the development of the property, is the access acceptable, are their environmentally sensitive areas that need greater protection,
528 will structures built on the lots meet applicable setbacks, etc.
529

530 If the concept plan is approved, we issue a letter outlining steps that need to be taken to get a final plat for the project reviewed
531 and recorded. That letter allows an applicant to move forward with the Orange County Health Department to seek approval for
532 your lots, i.e. apply for the septic evaluations. The citizen would hire their land surveyor and begin the process of doing the
533 formal final plat.

534
535 Once the final plat is submitted, we distribute copies to the Department of Transportation, to ensure the road connectivity access
536 point to a state road is sufficient, the Board of Education, with the school impacts statements, and to Land Records. Staff then
537 begins working with the County attorney's office to draft the development agreement as well as the road maintenance agreement
538 if required. AS we move forward, we begin getting approvals from the various departments involved with reviewing the final plat.
539 Once all necessary approvals are received, we can record the plat.

540
541 Minor subdivision applications can take from six to 12 months. If you use the standard forms for road maintenance and
542 development agreements approved by the County Attorney's office, your review time is cut to one week. We have also worked
543 very hard to try to involve land records at the onset of the application process to ensure they don't have any issues. They are the
544 last line of defense to ensure that all plats contain the relevant information by statute. The sooner we can get them that plat, they
545 can ensure that the information is recorded properly. Planning staff needs to give them as much time as possible. We are also
546 working with EMS that is currently handling all addressing issues.

547
548 Earl McKee: I don't have any problem with somebody that will have minor property having to jump through these hoops. Is there
549 any way to create exceptions or fast track for mother or father? My understanding that even if you cut off one lot will activate the
550 subdivision regulations to some extent. Is there any way for a parent cutting off an adjacent lot for a child to build a house on to
551 have a fast track so it won't take them 9 months.

552
553 Michael Harvey: There are ways to do anything and everything you want. If this Board wants to recommend a study there
554 needs to be a motion to the Board of County Commissioners to develop that process. It is my experience, after 15 years or
555 working within the planning profession, where such actions have been done successfully and unsuccessfully.

556
557 Currituck County, where I was a consultant rewriting their subdivision ordinance, wanted to develop a process for local farmers to
558 split off property for their sons and daughters. As a result we created the family farm subdivision exemption where a property
559 owner could come to the County with a final plat application with proof that this subdivision is designed to address family needs
560 and would not alter the ability to be a farm the property. If this is the case, the subdivision could be approved within 60 days.

561
562 Earl McKee: I have no problem with subdivision regulations on minors to exist for someone who is doing this as a subdivisions
563 but my problem comes in where it is a parent is cutting off one lot for a son or daughter.

564
565 Michael Harvey: I don't disagree with that but obviously part of staff's responsibility is to guarantee uniformity and to ensure
566 everyone is treated equally from the standpoint of the process that has to be observed in order to subdivide a parcel of property.

567
568 In places it has worked, it has been narrowly defined and what it is intended to do and where it doesn't work, you have those
569 charges you are somehow affording people greater utility and use of their property. I would obviously recommend making a
570 motion to ask the Board of County Commissioners as part of the UDO process once it is done, to begin studying a process to
571 look at that scenario.

572
573 Samantha Cabe: The biggest problem I see with that, although I agree with that, is how practically you distinguish between
574 those people and someone who is doing it for profit.

575
576 Mark Marcoplos: You were saying that this current type of program worked well.

577
578 Michael Harvey: It worked well but I won't say there were not abuses. One of the things we always heard is basically what
579 happens after three or four years that a lot gets sold and created a violation of the subdivision ordinance and it created a
580 continuous enforcement nightmare.

581
582 Samantha Cabe: How is that not a constraint on alienation because it is illegal to restrain the ability to re-sell your property?

583
584 Michael Harvey: My answer was that you voluntary accepted this as a development limitation knowing what limitations would be
585 imposed on you. Part of my concern was that it establishes greater utility for people utilizing the property than others and it does
586 create a disparity that we would all be concerned about.

587

588 Larry Wright: We had a secretary who had a neighbor in Chatham County with 120 acres. She was a grandmother in her 80s
589 and she sold off parcels. The problem is there were changes in the relationships and she was living next to people because you
590 can't select who you can buy from. Thereafter, she required prenuptial agreements of her heirs.

591
592 Mark Marcoplos: I say we should look at it. It sounds like there have been some moderately successful programs that could be
593 tweaked. I think we should do it. Everything has a drawback.

594
595 Earl McKee: I think it should be looked at.

596
597 **MOTION:** Mark Marcoplos made a motion for the County to study the viability of developing a fast track system for property
598 owners to be able to subdivide property to create developable lots for family members. Seconded by Earl McKee

599
600 **VOTE:** Unanimous

601
602 Brian Crawford: I have a question about vested right on page 6C. It is a lengthy discussion on vested rights. I don't think that is
603 the easiest.

604
605 Michael Harvey: The general statute allows you, as a property owner, to vest a site plan for a specific amount of time. You can
606 use the site plan for a specific number of years. This would basically allow you, as a property owner, to say I am going to do a
607 19 lot subdivision and I will put my cards on the table and say how I will do everything. If they County approves this, that is all
608 you can do, the lots have to be that acreage, the road has to be laid out as shown. It is an attempt to let you, as a developer,
609 lock in your development.

610
611 Michael Harvey: Majors are reviewed and approved by both Planning Board and Board of County Commissioners.

612
613 A major is technically a subdivision of property proposing over six lots or the development of a public road regardless of the
614 number of lots proposed.

615
616 There are at least seven or eight categories of major subdivisions ranging from planned developments, special use permits,
617 regular, conventional, flexible, and village option subdivisions. They are all processed in a similar fashion.

618
619 First, there is a pre-application review of a concept plan where it is just the applicant and staff meeting to allow staff to look at a
620 proposal and give the developer an idea if the plan will work before they start working on the formal application submittal. We
621 are also mandated to do an onsite visit where we walk the property to identify streams, the topography of the property, and low
622 identify where everything will happen to get a better idea of any issues that might arise during the development process.

623
624 After the application is submitted, we have a neighborhood information meeting where we, the staff, invite all the neighbors to
625 talk to the developer and ask questions about the project. One point I need to make clear is that it is not staff's role in this
626 meeting to present or argue for or against the subdivision. We present the facts and let the developer address the concerns.
627 We also provide information to those about what the ordinance will require.

628
629 After that meeting, the concept plan is sent to the Planning Board which allows you as Board members the same opportunity to
630 ask questions. If you approve the concept plat, the applicant moves forward in preparing the preliminary plat application
631 package to formally outline the proposed division of property.

632
633 The Planning Board reviews and takes action on the preliminary plat application package. The Board makes a recommendation
634 on the approval of denial of the package to the Board of County Commissioners.

635
636 We have had concerns expressed by a couple of members of the development community on how the review and approval of a
637 preliminary plat application is completed. Once it leaves the Planning Board, it is put on the agenda of the Board of County
638 Commissioners. One member expressed frustration that his subdivision was always put on the agenda last. For several
639 months, his subdivision kept getting put off because the Board of County Commissioners couldn't get to it. That will happen
640 because there is no way staff or the Board of County Commissioners can control that. The ordinance stipulates that the
641 Planning Board has up to 90 days to review an item. If you don't do it in 90 days, it is automatically forwarded back to the Board
642 of County Commissioners without a recommendation for their action. At one point, there was a suggestion in the initial outreach
643 meetings that there should be a similar requirement for the Board of County Commissioners. If the Planning Board has
644 approved it, the Board of County Commissioners has to take action on it.

645

646 Brian Crawford: I guess that goes to some of the frustration in general. It takes so long that once we have done our deliberation
647 here and I don't want to tell the Board of County Commissioners how to act, is this something we should suggest that they
648 should have some sort of respect for the developer.
649

650 Michael Harvey: The Planning Board can identify anything it wants to the Board of County Commissioners.
651

652 Brian Crawford: I think we should.
653

654 Mark Marcoplos: I agree. It goes along with the same thing. If you do the simple things to help someone in the process then
655 they won't get frustrated and won't start fighting other regulations we care about.
656

657 Larry Wright: Some of these, we are talking about timelines, etc. We have worked on a complex development, Buckhorn. DOT
658 does not align to anybody's schedule but its own. When you want traffic patterns, you want to know what lane accommodations
659 are feasible and a DOT study is an order and they have to do that because they have to approve the lanes, etc. to go into these
660 developments.
661

662 Samantha Cabe: If a motion is in order, I would recommend to the Board of County Commissioners that they develop some sort
663 of process. For example, after 90 days it is moved to the top of the agenda and if it is a review, even if they say we cannot act
664 on this now because we are waiting on the results of a DOT study, that is recorded and it is sent to the agenda. I think part of
665 the frustration is that nobody knows why it is buried at the bottom of the agenda.
666

667 **MOTION:** Samantha Cabe made a motion to recommend to the Board of County Commissioners for establishing a process that
668 developments are reviewed in a timely fashion.
669

670 Earl McKee: If there is a holdup, there is nothing we can do about that. If it simply a matter that it is always placed at the bottom
671 of the agenda and it goes for nine months. That is more of a Board of County Commissioners issue than a Planning Board
672 issue.
673

674 Brian Crawford: I understand it but the point Samantha said so well is not so much is on the end of the agenda but addressing
675 the issue so the developer knows why we haven't got to it. It sounds like issues that developers don't know why.
676

677 Earl McKee: How often does this happen?
678

679 Michael Harvey: It would be irresponsible to say this is a monthly occurrence. The particular development that was coming
680 through happened to be around budget time.
681

682 Brian Crawford: This is a suggested motion and I happen to agree with it.
683

684 Samantha Cabe: I am making this broadly because we as the Planning Board we cannot decide the Board of County
685 Commissioners process but because we only have the 90 days to process it, I think it is important for the whole process for them
686 (the applicant) to know it will be at least reviewed and commented on in a certain amount of time so they will be aware of what is
687 holding it up.
688

689 Judith Wegner: One of the things you could do is have some sort of Citizen's Satisfaction survey to monitor how effect the
690 process is.
691

692 Brian Crawford: Was there a second on Samantha's motion?
693

694 **MOTION:** Samantha Cabe made a motion to recommend to the Board of County Commissioners to consider developing a process
695 for addressing the major subdivision applications in a timely manner. May Becker seconded.
696

697 Pete Hallenbeck: When I think about people complaining about how long it takes to do anything in Orange County, I think about
698 December when we met with the Board of County Commissioners there was great push as to how we can speed up the process.
699 Part of what is going on here is the process of approval involves review by a number of Boards that have monthly schedules so
700 all those procedures will be incredibly so as opposed to being with staff, here are the rules and someone has the authority to sign
701 off. If we are going to tell the Board of County Commissioners they should do something in a timely manner, we should hold
702 ourselves to the same standard and at some point figure out what we do when half the world shows up and we don't just go,
703 "well we will continue next month" so we don't become part of the same problem.
704

705 Samantha Cabe: On this issue, we are limited. After 90 days, we lose the right to comment.

706
707 Michael Harvey: That is only on an item forwarded to you.

708
709 Pete Hallenbeck: As a Board that meets on a monthly basis, very similar to the Board of County Commissioners, we should
710 come up with a point to make the

711
712 Brian Crawford: If nothing else, the motion further defines the major subdivision timeline for the development so they know if it
713 gets to the Board of County Commissioners that they have an expectation it will leave the Board of County Commissioners in a
714 certain amount of time.

715
716 **MOTION:** Samantha Cabe made a motion to recommend to the Board of County Commissioners to consider developing a process
717 for addressing the major subdivision applications in a timely manner. May Becker seconded.

718
719 **VOTE:** 9- 1 (Wright opposed)

720
721 Larry Wright: I believe there is a Sunshine Law in that our Board of County Commissioners works within that. I believe that each
722 of the chairs of the Board of County Commissioners is approachable and I believe also there are complexities of developments
723 that the members of the Board of County Commissioners need to consider. Peter already expressed opinions that come from
724 various supporting Boards and I think for us to say that a developer expressed a problem because his particular case was put at
725 the end of each agenda, I have lived a very long time and one is a very small sample.

726
727 Michael Harvey: In conclusion, staff is asking you to continue to issue comments on the design elements we have talked about
728 so we can complete our review and the additional comments on process.

729
730 As you know we are not modifying process with this particular iteration but it will be important as we look at the next phase. Staff
731 has not been told what the next stage will be. If you are comfortable as it is currently laid out then we will just simplify the
732 language as best as we can just to make it easier to understand. You have identified your concerns and they will be brought to
733 the Board of County Commissioners. Please keep emailing your comments to me.

734
735 We will be finishing up the review of the UDO. We will review new sections next month. We are still accepting comments on
736 some of the past regulations you have looked at and incorporating comments of the various advisory Boards so that we feel can
737 be handled in this phase of the project and others that are not until further discussion with the Board of County Commissioners.
738 As we move forward, we will plug you back in the conditional use because you have asked to be. You need to think of
739 conditional use as sort of the existing planned development, Article 7, which we are really just changing the name.

740
741
742 **AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS**

743 a) Board of Adjustment

744
745 Michael Harvey: Board of Adjustment held a public hearing last month to look at a Class B Special Use Permit to
746 allow for a Class II Kennel operation to be developed at 719 New Hope. The permit was approved. This is the
747 second time we have looked at this permit. The Board of Adjustment approved it last year, local citizens
748 appealed. The judge remanded it back to the Board of Adjustment for a second hearing. The applicant filed an
749 entirely new application, which was reviewed and approved by the Board. The adjacent property owners have
750 appealed it again but unfortunately missed their window for submitting the appeal as detailed within our Ordinance
751 and NC General Statute. From the County attorney's standpoint, the appeal was not properly filled and has no
752 standing for review. We will have a hearing on May 17.

753
754 b) Orange Unified Transportation

755
756 Mary Bobbitt-Cooke: I wasn't able to attend that meeting.

757
758 c) Efland-Mebane Small Area Plan Implementation Focus Group

759
760 Pete Hallenbeck: The bulk of the meeting was spent bringing up to speed on this last phase in a general sense.
761 Concepts from how do you go from we like things that look like this and we don't like things that look like that,
762 here is what we want in our community to how does that turn into an ordinance. I think once everybody
763 understands that process better, we can better implement them.

764
765
766
767
768
769

AGENDA ITEM 10: ADJOURNMENT

MOTION: Judith Wegner made a motion to adjourn. Seconded by Larry Wright:

VOTE: Unanimous

Brian Crawford, Chair