

MINUTES  
ORANGE COUNTY PLANNING BOARD  
DECEMBER 1, 2010  
REGULAR MEETING

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**MEMBERS PRESENT:** Brian Crawford (Chair), At-Large, Eno Township; Judith Wegner (Vice-Chair), Bingham Township Representative; Earl McKee, Little River Township Representative; Larry Wright, At-Large, Cedar Grove Township; Tommy McNeill, Eno Township Representative; Peter Hallenbeck, Cheeks Township Representative; Samantha Cabe, Chapel Hill Township Representative; Alan Campbell, Cedar Grove Township Representative; May Becker, At-Large Chapel Hill Township; Mark Marcoplos, At-Large, Bingham Township; Rachel Hawkins, Hillsborough Township Representative; Andrea Rohrbacher, At-Large, Chapel Township

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

**OTHERS PRESENT:** Dolly Hunter, Sandra McKee

*(Documents handed out: Planning Board Agenda Item 8, Email from Orange County Voice, Email from Clerk to the Board of County Commissioners on Action on the Unified Development Ordinance (UDO) for the November Quarterly Public Hearing, Proposed UDO Timeline submitted by Planning Board member Larry Wright)*

**AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL**

**AGENDA ITEM 2: INFORMATIONAL ITEMS**  
a) Next Regular Planning Board meeting scheduled for Wednesday, January 5, 2011  
b) Planning Calendar for December and January  
c) October 6, 2010 Planning Board Minutes stand as approved – Comments made at the November 3, 2010 meeting regarding additions are not on the recording.

**AGENDA ITEM 3: APPROVAL OF MINUTES**

**MOTION** made by Larry Wright to approve the November 3, 2010 minutes. Seconded by Pete Hallenbeck.  
**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.

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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.

**AGENDA ITEM 6: CHAIR COMMENTS**

Brian Crawford: Welcome Alan Campbell. Please introduce yourself to the Board.

Alan Campbell: I am an attorney in Durham and live in Northern Orange County. I represent the Cedar Grove district. I am primarily in Estate Planning as a business attorney. I am originally from the Charlotte area and have lived in Orange County for three years.

Board introduced to Alan.

Brian Crawford: We also have another new member, Andrea Rohrbacher, who is not here.

Brian Crawford: My comments about the public hearing. It has been my thought that the Planning Board itself had spent a considerable amount of time working on the UDO and I thought, I looked back to the minutes to see, we had spent considerable time working on this and there was some consensus among the Planning Board members that we were willing to move forward so I was surprised at the dinner meeting which led to the public hearing where some of our own Planning Board members indicating that we had not spent enough time on this. I questioned that as to whether it was a question of leadership or, I don't know what it was. I thought we, as a Board, that the items that were troublesome for us we would put in a bucket but we would try to move this item along because part of my agenda as a Board chair was to get to the real substance and changes to make sure the small area plans are worked on and not stay tied up in this. When we got to the meeting to find out that some of the Planning Board members still had reservations which literally lead to us going over this process. I had hoped some of this stuff would come to the Board before we went there as a unified group. From the comments received, it seems the public wants this UDO process to move along and work on the substantive changes for Orange County. I understand there was confusion but the comments that came from at least one Commissioner seemed to all relate to areas in the County that aren't affected by the UDO, Chapel Hill and the ETJ of Chapel Hill. Those are the folks who are saying we are moving too fast and also one of the Commissioners was behind this. I understand this process is difficult for everybody. As a Planning Board, it was hard for me to see that we chose that moment to have disagreement when I thought we had agreement. I would hope, in the future, when we are working on a process and we say we are going to make a recommendation that we don't choose that particular moment. These are my comments and I am not directing this to anyone in particular.

Larry Wright: I respectfully disagree. The draft we worked on was August 2010, what we have before is November 2010. All our discussions were from the draft. I looked at that first draft. I just got in town. I haven't had a chance to do this. A member of this Planning Board was very concerned that I would not be here for this meeting and I do take it that I am the one that is filibustering by your comments and I'll directly respond to that. There is a lot that is new in this and I do agree with Alice. She is one of the few people that really reads on that Commission. I witness and submit Buckhorn Village and I listen to her when she speaks. I don't always agree with her but I listen to her when she speaks. Chapel Hill people are residents of Orange County. They are interested in the buffers around their city. They want to respond to those. We are public servants. We have sought on this Board to give something to our residents that is simple and easy to understand. Here you have architects that say they cannot understand conditional use. I have spent over half a day trying to figure that out. Perdita gave me citations, Institute of Government citations, that equates floating zones with spot zoning. I don't understand it. How are we suppose to do this? I think that we need clarification on this and I am going to pass something out to each of the members. This is a proposed schedule. Remember our charge from the Commissioners was to get something here by the end of the fiscal year. I am submitting the recommendations from the public hearing. Item #3, Unified Development more time for review and comments and that the timeline will not exceed this fiscal year. Some of the letters to the Commissioners state they just barely got it before the public hearing. Commissioner Gordon mentioned there should be another public hearing. I think this should be seriously considered. I feel strongly that we have been charged, Ben Lloyd said we need to get it right, other people in that meeting said take the time to get it right. You may have heard something else, that's what I heard and here we have people saying, get it right, and they expressed their confusion. I think to rush this through would be absolutely....I wouldn't want to be adopting it like that. I really wouldn't.

119  
120 Brian Crawford: Ok.  
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122 Larry Wright: I'm not through yet please. You took your time I am going to take mine. I would like to go through this, it is my  
123 alternative schedule to the one proposed by staff.  
124  
125 Brian Crawford: This is just the comments time. I don't want to work on anything substantive at this point, I will make sure you  
126 have the opportunity to go through that when we get to that agenda, is that ok? I just want to be fair about it, I just want to make  
127 comments and when you want to go through something substantive, you'll get an opportunity to do that, ok?  
128  
129 Larry Wright: Ok, but I am not through yet.  
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131 Brian Crawford: Ok  
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133 Larry Wright: Please don't smile at me like that.  
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135 Brian Crawford: Larry  
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137 Larry Wright: It's seems condescending  
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139 Brian Crawford: Larry, I'm trying to honor you, don't push it. Ok, I understand. I am not laughing at you.  
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141 Larry Wright: I remember a former Chair.  
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143 Brian Crawford: Ok, fair enough.  
144  
145 Larry Wright: All I want to say is even though these people live in Chapel Hill, as some of our Board members do, just because  
146 they submit emails and they are from Chapel Hill, I disagree with you totally that this UDO does not affect them.  
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148 Brian Crawford: May, you have a comment?  
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151 May Becker: I agree that, as you pointed out, there is the impression that a lot of people at the public hearing wanted to have it  
152 passed but I think it is important, as Larry pointed out and Commissioner Gordon pointed out, that there were emails and those  
153 have to be considered. At the same time, in the Environmental commission meeting before that there were also concerns about  
154 first of all that the document came out so late there was little time to review a document of that size. The other point that came  
155 up was that there are sections that changed and there are new parts of the ordinance and those new parts were not really  
156 presented in a way that they really understood the differences between the new parts and parts that were simply formatting. I  
157 have this feeling that, in these meetings as well, we do something new every month and then it seems sometimes as if we don't  
158 necessarily follow up on the discussion. In other words, we talk about sustainability and we describe some portion of the  
159 conditional use of the new types of zoning, but we didn't really have a chance to say, as you pointed out, we make a  
160 recommendation as to how this different and what the potential impacts are environmentally, in terms of transportation and so  
161 forth. We also made several comments in the draft that we never really followed up on. I had a lot of concerns on the stream  
162 buffer and questions about what that actually means and you put them in writing and they were circulated but then getting back  
163 to them and being able to say as a Board or as an individual, what are your concerns, is this something we want to move forward  
164 on. I didn't feel like we are able to do that before in enough time that we could actually address this before the final decision was  
165 made. When you get to a situation where you are given a document that you didn't really have enough time to read in detail  
166 about these discussions we had and ask yourself is this really something we want to move forward. I think it is a reasonable  
167 thing to say, let's be prudent about this and consider how is going to change Orange County and it that is really what we want to  
168 do.  
169  
170 Mark Marcoplos: Kind of felt like you when we came to the end of our process let's get on with the interesting issues we have  
171 identified then went to the public hearing and heard what folks and Alice Gordon had to say and I thought about that and looking  
172 at the emails through public input. That is what the public hearing process is about to get feedback. Have we really done what  
173 the public requires of us. A lot of these emails are from people in the County, like Orange County Voices, it is a good  
174 organization keeping track of how things impact the areas of the County. I had some emails and personal conversations with  
175 some folks in the organization and it dawned on me that even though I thought I was ready to move on. At this point with the  
176 feedback we have got we really could not say, no we are going to disregard your email and comments and call it a done deal. I

177 started thinking about getting away from a general description and in the UDO. I want to get hypothetical situations about real  
178 projects to understand how that might occur.  
179

180 Samantha Cabe: There are many things in this document that I disagree with. At this last meeting, I was also at the point ready  
181 to move on because I did not view the vote on this part of this process substantive. However, all of us has this document in front  
182 of us since, the initial draft has been on line and before us and we have discussed it in length and certain parts but the general  
183 public has not been in our meetings so I can understand when this document was published 2 weeks before the meeting they  
184 could be fearful of what was in here. Later in our agenda, when we do get to the part of recommending a time line, I would  
185 recommend publishing that proposed time line and describing exactly what a vote at each state would mean. I would  
186 recommend whatever timeline we approve that it be published so that everyone have the foresight that we take for granted.  
187 From the comments I have seen, they are a very focused area, conditional uses, that people are concerned about. It would be  
188 well worth going back and doing some focus work discussing the public concerns about that without going back through every  
189 thing we have done.  
190

191 Pete Hallenbeck: With regards to people understanding it via the email and feedback, one of the roles we play was making  
192 decisions about what the document should look like and some of those decisions were a conscious decision to be more of a  
193 reference manual than a tutorial. This is new to the public and it took us a long time to absorb it. An error that was made that  
194 anyone could not anticipate is that it will take the public a long time to absorb this as opposed to other things put before the  
195 public. It doesn't bother me if the time schedule skips up a couple of months. It doesn't seem that it has been clear to the public  
196 or Commissioners of this two step concept. This merge phase and then going back to deal with substance. In my mind I am  
197 happy with phase I and I am looking forward to cleaning things up. Looking at some of the comments, particularly the conditional  
198 use and looking at some of the handouts, I am at the point where I think the people that see this is a change just need to look  
199 more carefully at our process, this concept of the phases and what those conditional uses of zoning are, I don't think they are a  
200 radical change. I am more worried about the Phase I and Phase II figured out, getting that in front of everyone.  
201

202 Judith Wegner: People have worked hard on this over a period of time. Larry, who I respect, I would really have to disagree in  
203 some regards in terms of your legal analysis. I don't think conditional use districts are spot zoning because they are specifically  
204 authorized by statute at this point. I think that is the biggest issue that I have heard. I am concerned about the meeting on  
205 January 5, I have to be out of state then, so I wish there were a chance that we could set another meeting date and maybe allow  
206 the public to come in and talk about their concerns. Something that came up with the speedway small area plan discussion and  
207 it is an approach that has been used a lot in other municipalities and I think it can be handled effectively however, it is a  
208 challenging set of concepts for folks to wrap their heads around so there is a certain amount of technicality in the way of the  
209 wording and description of this is sent out and I think we have an obligation to step back and have a better conceptional portrayal  
210 for people to understand that. I would like to think we could narrow down the areas of real concern. Conditional use is one of  
211 them, I have heard issues about water, trees and other things. I think we should come to some closure on Phase I within, in my  
212 mind, say April so that the Board of Commissioners when they work on the budget are not put in the position to do things they  
213 have to do. I think we need to get Phase II because there are issues we have discussed that need to be addressed so if we  
214 leave the Phase I hanging too long, we won't proceed on that. We need to discuss our real concerns. I think about a six month  
215 window to think about what we know now that we should be able to bring closure to things here.  
216

217 Tommy McNeill: It is always great to have a great debate. A person we should consider is the county manager. He stated that  
218 the documents have been in the works for at least 24 to 36 months, we have had public hearings. He went on to say that it will  
219 never be a perfect document. There are certain pieces that we can tweak and change and that would be something the Planning  
220 Board could work on. We are doing our part and asking the public for their input and as a result of that, this is what we have.  
221

222 Brian Crawford: Larry, I want to apologize to you because I don't want you to think I was making light of any of your comments. I  
223 don't want to go to war over this document.  
224

225 Larry Wright: I just thought your comments were directed to me personally.  
226

227 Brian Crawford: Actually your comments were specific and you pointed out exactly what you saw the confusion was. Some  
228 others were let's just stop to read this or we need to take time to absorb the document. You made a specific point but let's not  
229 stop the whole process because I want to read this cover to cover.  
230

231 Larry Wright: No, my comments were this, we have been working and it is still not clear around the Board. We have been  
232 working on the August 2010, now just before the public hearing, we were given the November 2010. If you look at the August  
233 and compare it to November, there were substantive changes and these changes were outlined in the slides staff presented. If  
234 you look at the proposed schedule for December 1, consider topics, some of these topics are not just in one section. If you go  
235 section by section, you will have to look for conditional use districts. I think we should look at what the changes are. Even

236 though we have gone over this document month after month, there are things we haven't seen. We were lured into, there were  
237 no change, and then we come up with changes and there are substantive changes.

238  
239 Earl McKee: If everyone spoke on this because my intention was to not sit through items 7 and 8 because I felt there would be a  
240 conflict with my sitting through the discussion and then having to sit on the Board of Commissioners. I would like to say that I  
241 have enjoyed being on the Planning Board even though my tenure has been short. I would urge you to look at it and bring it to  
242 the Commissioners because that is where it will hit the political arena and it will be a lot more difficult to move it forward than it is  
243 here. Try to come to an agreement and then bring it to the Commissioners. I have sat through two budget meetings if this gets  
244 to the Commissioners in April or May, it will not get very much consideration. Try to hit this window before the budget cycle  
245 starts in early April. It may not get as much attention as it deserves. It will never be perfect and it can be changed. (He read his  
246 resignation letter).

247  
248 *Earl McKee left meeting*

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251 Brian Crawford: Ok, let's get down to the hard work.

252  
253 *Andrea Rohrbacher arrived*

254  
255 *Tommy McNeill left meeting*

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258 **AGENDA ITEM 7: EXTENSION OF SPECIAL USE PERMIT APPROVALS:**  
259 To discuss and make a recommendation to the BOCC the County's position on extending Special Use  
260 Permit approvals, pursuant to state legislation.  
261 *Presenter: Craig Benedict, Planning Director and Michael Harvey, Current Planning Supervisor*

262  
263 Craig Benedict: This is a law that had been passed by the state. It was put forward by the legislature that any projects that may  
264 have expired until December 2010 would be extended at the end of this month. Someone who had to stop their project due to  
265 bank financing would not have to begin the process over. This is another legislative bill to extend it one more bill. In this bill  
266 there is an opt out provision. You have two choices, you can extend it to December 2011 or you can opt out and let the permits  
267 expire. The Commissioners have asked the Board of Health and the Environmental Health Department to look at how their  
268 permits would expire and they have also ask the planning department to meet with the Planning Board to discuss the impacts of  
269 it. If there were a number of new rules, sometimes it is better to let people begin at the beginning. That is not the case with our  
270 regulations. Staff recommendation is that we would allow the permit extension law to be in effect in Orange County until  
271 December 2011 and then there may be a bill coming with another opt out provision. This is on the December 14 agenda for the  
272 Commissioners, they will have the choice whether to go with staff's recommendation. The financial impact of people beginning  
273 again may add up to \$5,000.00 of lost revenue but in the scheme of things, having people start over again after their project have  
274 been delayed, we find it is not worth the \$5,000.00 to start over.

275  
276 Samantha Cabe: I currently have a septic permit for a lot that I own in Orange County that is set to expire under the old act at  
277 the end of this year so this will directly affect me. I am not sure that is directly in conflict. If you would like for me to opt out of the  
278 discussion or the vote, I will do so.

279  
280 Mark Marcoplos: What takes so long for people to come forward with a concept plan?

281  
282 Craig Benedict: In some cases like a minor subdivision, they get an approval from staff, as soon they record the document, then  
283 the lot is split into three or four separate parcels and they get taxed a lot more so they usually hold off to subdivide it at the last  
284 second before they are ready to develop. They usually wait the full one year period.

285  
286 Mark Marcoplos: They can't really finalize the concept plan until they have been property subdivided?

287  
288 Craig Benedict: That is correct.

289  
290 Samantha Cabe: It is not necessarily the tax benefits but there are costs associated with subdivision that, they might have  
291 thought they were going to have that money or they have a pre-sell which they haven't done that so they don't have the money to  
292 do the subdivision.

293

294 Craig Benedict: It is also building the private road and that occurs before the final plat. The Board of Health did not make a  
295 recommendation, they said there are no new health laws that would be impacted by it going another year and if they opt out,  
296 there might be lost revenue of \$25,000-\$28,000.

297  
298 Brian Crawford: There is also the practical financing problem comes into play. If we allow more time, some people may be able  
299 to deliver their projects if they keep the permits in place but if they expire, that might end the whole project.

300  
301 **MOTION** made by Mark Marcoplos to approve the recommendation. Seconded by Alan Campbell.

302 **VOTE:** Unanimous

303  
304 Brian Crawford: Andrea, welcome, why don't you take a few minutes and introduce yourself to the Board.

305  
306 Andrea: I have lived in Chapel Hill since 1980. I currently live in Southern Village. I have been active in government since the  
307 90s serving on various boards and commissions in Chapel Hill. I am currently on the Chapel Hill Planning Board. I am very  
308 interested in environmental issues, land preservation, water quality, those kinds of things and I look forward to serving on this  
309 Board and to shape the future for Orange County.

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311  
312 **AGENDA ITEM 8: UNIFIED DEVELOPMENT ORDINANCE (UDO) – TIMELINE RECOMMENDATION TO BOCC:**

313 To make a recommendation on the UDO review/adoption timeline to the BOCC. Recommend timeline  
314 to be reviewed at December 14, 2010 BOCC meeting; Planning Board recommendation must be  
315 finalized by noon on December 6 in order to conform to BOCC agenda packet distribution requirements.  
316 *Presenter: Planning Staff*

317  
318 Brian Crawford: Give some of your suggestions and some point, we will allow some of the Planning Board members to weigh in  
319 on the proposal. Hopefully, we can narrow this down to a set of issues that we can work on between now and at the latest, the  
320 March meeting so we can present the Commissioners something prior to the budget session.

321  
322 Perdita Holtz: Craig, Brian and I met last Wednesday after the Quarterly Public Hearing to discuss a potential schedule. That is  
323 Attachment 2 which was emailed on Monday afternoon. This schedule could be impacted by the topics in sections that you feel  
324 need to be reviewed so we may need to talk generally and not get into the specifics about what topics and sections folks do want  
325 to review further. I want to mention a potential outreach meeting we may be able to hold. What do people want to review  
326 further?

327  
328 Brian Crawford: I think this is the appropriate time for Larry to talk about his list.

329  
330 Larry Wright: The slide presentation the staff made at the public hearing, I took this from the slides and added conditional use  
331 and plat submission process because I had concerns and I would like to go through this again so I added this there. Signage,  
332 Landscaping, Parking, Stream Buffers, Lighting, Conditional Use and Plat Submission Process. I think some of these span more  
333 than one section. I would also like to state that maybe they are in the second draft, fine, but we have a number of attorneys and I  
334 really don't think that .... we talked about simple language and we have mentioned this many times. I don't think someone  
335 should have to hire an attorney to defend their position if another person is looking at property next door and interpret language  
336 in this UDO to mean they can do something that would cause a neighborhood to have to hire an attorney to represent their own  
337 interest. I think the language should be clear and accurate to keep out the attorney process. December 1 is considered what we  
338 are doing right now. We should not look at every section.

339  
340 December 2, this follows Perdita's schedule, special meeting, if needed, to complete revised process. December 6 is what  
341 Perdita has here. December 14 matches her list so does January month of. January 5 is the Planning Board schedule. January  
342 31, potential deadline for the municipalities. February 2 is the Planning Board meeting with staff available for clarification,  
343 discussion of additional meeting and then we set the agenda for that meeting. February 9, if there is a special meeting then we  
344 have a work session on the definitions and glossary to make sure people can understand those terms with staff available for  
345 clarification and set agenda. It is important for people to refer to the definitions in the glossary. February 16 matches staff's  
346 outline. Staff can submit a brief summary of what we have submitted. Staff, I think this should be a Planning Board driven  
347 process and having worked through major items like Buckhorn and the Comprehensive Plan. I think we can limit staff to a 15  
348 minute presentation. If this can be compressed to March 2, fine, but if we can't, we have been given until the end of the fiscal  
349 year. If the Board of County Commissioners do hold another public hearing, it would probably be February 28 because they  
350 have a meeting scheduled. We may still have stuff coming from that Public Hearing. That would bring us to the April 5 meeting.

351

352 Samantha Cabe: I am confused about what it is .... are we talking about extending this first phase of getting approval on the  
353 initial consolidation all the way to March 2?  
354

355 Brian Crawford: We still have this problem, at least among Board members, of what is actually happening.  
356

357 Samantha Cabe: It is a misunderstanding among us and also the public. A big part of it might have been a failure to  
358 communicate our plan phasing process. I agree with a lot of these areas that need work but do we need to do this in Phase 1  
359 because I thought that was part of Phase 2.  
360

361 Brian Crawford: Right but from the discussion we had at the meeting, the contention is the changes we are suggesting in this  
362 consolidation, there are substantive changes that have taken place.  
363

364 Samantha Cabe: I think there are but are we asking the Board of County Commissioners to adopt this and make it law?  
365

366 Craig Benedict: Phase 1 would make and be effective UDO for Orange County.  
367

368 Samantha Cabe: I was not under the impression that was the case at all. I thought we were submitting this to them to get their  
369 approval on how it had been consolidated and we were to go back and make substantive revisions.  
370

371 Brian Crawford: You just said there are substantive changes.  
372

373 Samantha Cabe: I do think there are.  
374

375 Brian Crawford: In the actual document, there are substantive changes?  
376

377 Samantha Cabe: Yes. I don't necessarily mean from the first draft but there are substantive changes from what the law currently  
378 is from what the ordinances are to this document. I was on Board with the way this document is compiled, organized, logistically  
379 put together is what I thought we were considering as Phase 1 and Phase 2, we would move on to further tweak some of the  
380 substantive issues we had put into the bucket but I don't think it is a good idea to make it law when we all agree that a lot of this  
381 stuff that is in the bucket for further review. While I do agree that no document is ever perfect, I also see that putting something  
382 that we have all agreed contains things that are still the object to a lot of discussion and making that law, I can see that being put  
383 on the back burner and remains law for a long time when we are really intending to come back and fix it.  
384

385 Craig Benedict: We have six different land development codes in different places with different formats. We brought them  
386 together in Phase 1 with some changes but not dramatic. That does need to become law and then we can make the changes to  
387 that. By this first Phase, it is adoption of the new UDO. We know there are areas that need to be changed, then Phase 2 and  
388 beyond we could go to the right sections and make changes.  
389

390 Samantha Cabe: Staff has worked very hard and we really need the consolidation but why did we muck it up by putting the  
391 substantive changes in, why didn't we just do, first and foremost, a purely logistical consolidation and then go back and add  
392 these substantive things?  
393

394 Perdita Holtz: A lot depends on what you consider to be substantive. In August 2009, BOCC authorized staff to develop a UDO  
395 that combines all the existing land regulations, correct any inconsistencies and I know there have been issues with that, update  
396 the following sections of the zoning ordinance, signage, parking, landscaping, stream buffers, revised the existing subdivision  
397 regulations to include recent changes in state law from 2009, develop conditional use and zoning process and update the  
398 existing graphics and tables.  
399

400 Samantha Cabe: Right, maybe my question would be to the BOCC as to why they directed you to do those substantive things in  
401 the consolidation process. I would think that a pure consolidation without doing ... I know things needed to be updated but to me  
402 it would have made more sense to do them separately so we didn't get bogged down with these small substantive changes.  
403

404 Perdita Holtz: Putting the 50 pages that is currently the planned development article into a UDO would be very time consuming  
405 and difficult to take them out again. It seems that would have been a waste of staff time to just .... The BOCC was aware, we,  
406 the county, not staff, was planning on changing these things so why not change them now. I think the BOCC vote was 6 to 1.  
407

408 Tom Altieri: I can add some additional context why some new areas were introduced in this process and it goes back to the  
409 Comprehensive Plan which took about 2½ years to complete not to mention a Land Use Element update process for five years  
410 and during that period of time, planning staff was also working on other projects. We were completing small area plans for

411 Efland and Mebane, NC 57 Speedway Plan, considerable work done on landscaping, lighting and some other areas. A that  
412 point, staff was asked not to get into making those amendments at this time, let's finish the Comprehensive Plan. So we finished  
413 the Comprehensive Plan. We do have citizens that were involved in those as well and are interested in seeing some of those  
414 things get moving along. That was how there could be a compromise.  
415

416 Pete Hallenbeck: Larry mentioned that it would be nice if we had simpler language. I think in a lot of this planning stuff, there  
417 are a lot of times when specific terms have to be there so what is there has legal context. I would agree to keep it simple but in  
418 those places where you can't it would be nice to have it identified that sometimes these phrases have a specific legal meaning  
419 that an average person wouldn't interpret. When I hear the comments about all the change, we are a victim of red ink change  
420 technology. Part of the problem is that word processing has you grabbing all these documents and consolidating them and when  
421 you make changes, you can't tell if it is a consistency change, numbering change or this actually a substantive change. On  
422 Larry's timeline, I think there is a reality we can't ignore which is that we have a reaction from the public and from the  
423 Commissioners, the timeline has to change. This timeline strikes me as being like a hurricane forecast, the further out you get  
424 from now, the harder it is to do it. If we go this route, that February 2 meeting is critical. At that point, we will have a lot more  
425 time to get input from all sorts of people and we will have time to process it more.  
426

427 Mark Marcoplos: I appreciate Samantha's comments about changes and wanting to be certain that what is adopted by the  
428 Commissioners doesn't lead us unto surprises. I would like to propose to speed it up. I think there is a couple of things that I  
429 have identified, what we need to do as soon as we can is, in the Conditional Zoning Districts rise to the top of the meeting is to  
430 look those over and make sure we are not going to hit any surprises. There is a lot of stuff in the bucket and we will not get to a  
431 lot of that stuff for a while. We don't want to throw something in the bucket and eight months from now a project comes along  
432 and it will be something we miss. We want to prioritize the most hot button areas and look at those, deal with those to our  
433 satisfaction and say, it is close enough, we are satisfied it can't be exploited. I want to get to Phase 2 where we can create  
434 change. Earl is talking about the budget process, I think we need to get this to them earlier than we think. If we get it to them  
435 earlier, we can get to Phase 2. I am proposing that we look at number 1 Conditional Use/Conditional Districts so we don't have  
436 any surprises and explain it to the public. Then we look at the stream buffers. I think they are in good shape so we could just  
437 review that. I would say we need to do those two before giving it to the Commissioners. There is a second Board of  
438 Commissioners Meeting in February which would be my suggested target. We should be able to do this with the two meetings in  
439 January and one in February or maybe two and knock out those two and prioritize the others in the bucket. Lighting to me would  
440 be one that I would like to get to sooner. The other things don't offer real dramatic problems.  
441

442 Brian Crawford: Any comment on Mark's proposal.  
443

444 May Becker: I would like to add the tree protection to the accelerated items. If we work on those accelerated issues then what  
445 would the next stage be?  
446

447 Mark Marcoplos: We have to wait until they approve this before we can get in tinker with the substance.  
448

449 May Becker: What about the other issues that we didn't specifically look at? It's the law even though we never looked at them.  
450

451 Mark Marcoplos: Signage, right. Even though we didn't look at it now it would be approved with the whole thing. Afterwards, we  
452 can decide when we want to get into signage.  
453

454 Brian Crawford: It was always to be this is the law. When we were first given the project, please just consolidate the documents  
455 and do the steps we want you to do but once we get to Phase 1 and now we have a UDO, now let's go to the second phase and  
456 start making this document.  
457

458 May Becker: But if were just to consider the acceleration, if we say that Phase 1 is already in law, then in Phase 2 why wouldn't  
459 we consider accelerating it and getting the parts already law passed and then spend time on these other issues we know we will  
460 need more time for rather than try to include new issues.  
461

462 Samantha Cabe: From a practical point of view, because there is six different documents, it would be difficult to ask the  
463 Commissioners to approve everything except Sections 2, 3 and 4, that would leave no law in those areas. As Craig said  
464 because it has been rearranged, if it is not law we can't really amend it. I actually agree with Mark's plan, there is substantive  
465 change, even the Conditional Use district, they appear more substantive than they actually are but we do have to deal with public  
466 perception. At first this may seem like a major change. Whether we like it or not, we have to deal with the perception of this not  
467 always the reality. It does need to be done but it will not be perfect.  
468

469 Pete Hallenbeck: The slide that Perdita put up which basically said this will be a clean merge but we are also changing this. If  
470 we had those changes and correctly merged everything and it turned into law, there would be no change in how things are done  
471 in the County just the organization. If staff could clarify what was actually changed in terms of affecting the law versus what was  
472 changed in writing, text and organization and we focused on those changes and then you passed that into Phase 1 then there  
473 has been no changes in the law.

474  
475 Judith Wegner: Do we know when the consultant will have the list for us of the bridge document that would reference all the  
476 bucket items?

477  
478 Perdita Holtz: The bucket items were included as part of the Quarterly Public Hearing packet.  
479

480 Judith Wegner: What is the bridged document from the presentation that there would be a more aggregated portrayal of that  
481 than just people think that we are on the other document?

482  
483 Craig Benedict: The last item for the bridge were the public hearing comments, the 10 people that spoke and the emails that  
484 came in. As soon as we shut down any further public comment then the bridge document can be complete.

485  
486 Judith Wegner: Is there a draft in process of the bridge document?

487  
488 Craig Benedict: Yes.  
489

490 Judith Wegner: How close to closure it is for what we have pulled together to date? I think that is part of what Pete's  
491 referencing. In a sense it is artificial to go back and try to carve out what is in the current document that was modified. I  
492 appreciate what staff said in terms of trying to unwind things that are essential. Staff may be getting mixed directives from us. I  
493 thought things that had been firmly looked at in terms of small area plans that we have had in process for two years, it didn't  
494 make a lot of sense to ignore that and go back and revisit that later. Some core concepts about Conditional Use Districts could  
495 be framed out as part of this document because consolidation isn't just the separate ordinances, it is also the kind of fundamental  
496 planning that is already been done where folks have weighed in on what needs to be developed as concepts. The idea of  
497 conditional use district and conditional districts gets muddled, I wish there was a different way to articulate conditional districts. I  
498 think that is the biggest topic that people have been talking about and we deal with that sooner versus later. Also, it would be  
499 hard to have a document that pulled that stuff out and then tried to put it back in again. If we are talking about what we can get  
500 done in two months, we need to highlight the high points and recognize that there is this whole other thing. We will need to have  
501 some intensive homework to articulate what it is about conditional use districts and conditional districts. I agree that we should  
502 plan on two meetings for the month of January and February.  
503

504 Larry Wright: Conditional use is tied to the conditional districts. If you look at permissible use in the latest draft and excluded  
505 uses, I do not understand why those permissible uses and excluded uses appear in both places. We need to look at those  
506 tables and look at why.  
507

508 Brian Crawford: It is clear to me that we have to work on conditional use/conditional districts first. If we can get that issue off the  
509 table where we understand it and can articulate it, I think it will go a long way to get through the other issues. Mark, I like your  
510 suggestion. I would like to look at this in the next two months not beyond February or this document will be dead. Can we agree  
511 to work on this conditional use and conditional district process first and get through that and then move onto any other topics.  
512

513 Samantha Cabe: I think that is a great idea. Would it be possible at a special meetings or regular meeting for staff to articulate  
514 briefly how the current structure works and how the change to conditional use and conditional districts demonstrate what the  
515 change is. If we can wrap our brains around how it will affect someone utilizing this process then we will be able to better  
516 articulate it. If staff doesn't want to do that or something you don't think you should, there are attorneys in the County who are  
517 very familiar with the process and may be able to go through this.  
518

519 Craig Benedict: We are doing that now. It is incumbent upon us to have something clear enough. Staff has been working on  
520 every different aspect of the land use process, is it county wide or in a focus area, what are the permitted uses, what type of  
521 process it is. We will put that in a chart. After we have that list, we will go with the Board ... we will plug a use in and how does it  
522 flow through that process.  
523

524 Brian Crawford: How soon do you think you will have that document ready?  
525

526 Craig Benedict: I would say the next couple of weeks.  
527

528 Mark Marcoplos: That would be great because I think there will be public here in January. I don't think we should leave the door  
529 open to consider other issues beyond the conditional zoning issue.  
530

531 Larry Wright: Hearing the discussion here, my suggestion is that if we are considering the timeline as imperative as one of the  
532 primary things, that we take the rest of the list and in our recommendation ... since staff has said and it has been discussed  
533 among us, that this is just a document to go into Phase 2 and that these are priorities. Say, we never get to conditional use  
534 districts and others are high priority. We state, we got to signage, we considered this primary and we got to landscape. We are  
535 leaving the rest for Phase 2 so they know that it will be dealt with in Phase 2.  
536

537 May Becker: If we do consider that only considering particular issues and putting the rest into law, there is no reason to think  
538 that down the line that would actually be reversed.  
539

540 Brian Crawford: We will look at it in Phase 2.  
541

542 May Becker: You are suggesting we put something into law that we may not be comfortable with. I think the stream buffer is  
543 really important and to just approve something we are not comfortable with doesn't make sense.  
544

545 Craig Benedict: That is a good example. Orange County has the highest level of protection of stream buffers in North Carolina.  
546 We go beyond USGS streams and we locate them. What did change is that state law does allow more interruption into the  
547 stream buffer than our present code. We have lakes surrounded by stream buffers and we are not allowed to put a dock on a  
548 pond in one of our own parks so the public can fish.  
549

550 May Becker: I suppose that is one question that came up. It does still not make sense to me. Are there other parts of the law  
551 that would go into effect if a developer wanted to build next to a stream buffer that previously or is being protected now, would  
552 that be allowed as a result of the new ordinance?  
553

554 Shannon: May, if you want to look at Section 6.13.6 as far as with the stream buffer section. That is a list of uses we are  
555 proposing to be permitted within stream buffers. Take a look at that section and let us know if you still have questions.  
556

557 Larry Wright: When you give a list of permitted uses, if it does not fall within the permitted use, it is not permitted?  
558

559 Shannon: There is text which talks about uses that are not specifically on there. If a use is not specifically listed and it falls in  
560 the parameters, it may be permitted.  
561

562 Perdita Holtz: Check out 5.5.1.  
563

564 Mark Marcoplos: When I made my original proposal, I suggested conditional districts and stream buffers be what we focused on  
565 before we turned this over to the Commissioners. Also, when we looked at the stream buffer stuff that it was okay. I think it is  
566 politic of us to address the stream buffers because a lot of people are concerned that. I think if it is an issue we can address it  
567 relatively quickly.  
568

569 Brian Crawford: Do we have consensus among the Planning Board members that we will work on conditional use, conditional  
570 districts and stream buffers in a short period of time so that we are comfortable enough that we can articulate what the changes  
571 are and communicate to the public with those changes or we are not comfortable with them in a short period of time over the  
572 next month. Come back, challenge the staff to make sure that we absolutely understand it. At our next meeting, those are the  
573 items we will deal with. What type of information do we want to give staff?  
574

575 Larry Wright: What you sent me, the Institute of Government and the other materials, if that could be distributed to the other  
576 Board members.  
577

578 Brian Crawford: It already has been.  
579

580 Larry Wright: In Section 5 of what Perdita sent out, there is language, I would like the attorneys looked at, talking about floating  
581 zones as a creative way for spot zoning.  
582

583 Brian Crawford: Larry, why don't you send that to us. We are all going to commit to read these two questions and send them to  
584 staff.  
585

586 Samantha Cabe: I would also suggest we commit to reading the old Section 2.

587  
588 Craig Benedict: We will commit that within two weeks, we will send out the side by side comparison of planned developments  
589 versus conditional use.  
590  
591 Mark Marcoplos: I want to underscore some concrete examples of how this works to protect our neighborhoods.  
592  
593 Shannon: Can we do the example to talk about them here so we can go through a scenario.  
594  
595 Larry Wright: I think it was floating zones, I would like staff to compile how floating zones would not be in AR, in the buffer areas,  
596 the way it reads, you could put anything in permissible use and a floating zone and that would be anywhere in the County, I  
597 would like to have a comment from staff on how you couldn't get a vitamin plant in a rural buffer or in an AR area.  
598  
599 Perdita Holtz: Larry, maybe you can look at Section 3.7.2e. That is existing planned development.  
600  
601 Larry Wright: Can you put that for the discussion.  
602  
603 Pete Hallenbeck: It would be great to see on all this conditional stuff what was there and how it was changed to get where we  
604 are. That might be able to identify similar paths or editing for these other items. On floating zones, I talked with Perdita, she said  
605 it was planning speak. There were floating zones and general use districts and perhaps staff could help identify planning speak  
606 that slipped into this that lay people are having a hard time with.  
607  
608 Perdita Holtz: We can take out the word Floating Zoning Districts and it would work exactly the same. This term really has no  
609 bearing.  
610  
611 Samantha Cabe: If you could recirculate the comparative chart.  
612  
613 Craig Benedict: That is what we are augmenting.  
614  
615 Brian Crawford: This is what I have heard. We are all going to commit to reading the current document as well as the old one.  
616 You are going to work on getting a chart to us in the next two weeks. We are going to present concerns and questions to staff so  
617 that at the January meeting, we can put to bed the whole discussion about the stream buffers and the conditional use, at least  
618 among this Board.  
619  
620 Judith Wegner: I want to take the pulse of everyone for a meeting for January 5.  
621  
622 Craig Benedict: January 12 is okay with Wednesday.  
623  
624 Alan Campbell: I will be out of town.  
625  
626 Larry Wright: We could have a work session on January 5 and a meeting on January 12.  
627  
628 Judith Wegner: That is fine but I think we need to plan for two meetings in January.  
629  
630 Larry Wright: I won't be here January 26.  
631  
632 Brian Crawford: Besides Judith, does anyone else have a problem with January 5. We will leave it at January 5. We may be  
633 able to pipe you in.  
634  
635 Judith Wegner: If I am not able to be here, I would write something about it if that would be helpful.  
636  
637 Craig Benedict: The 19<sup>th</sup> we were considering an outreach meeting for people who sent in emails, to present something for the  
638 public.  
639  
640 Judith Wegner: You would save the second meeting for the 19<sup>th</sup>. Is that possible?  
641  
642 May Becker: Is there a possibility to do a conference call?  
643  
644 Brian Crawford: Staff will look into that.  
645

646 MOTION made by Judith Wegner that the consensus of the meeting is that there will be intensive work on two major issues, one  
647 dealing with conditional districts, conditional use districts, and stream buffers. We would report to the Board of Commissioners  
648 by the end of February. We would recommend to the Board of Commissioners that they schedule an additional public hearing at  
649 the end of February or the next available to present the additional recommendations to the public. Seconded by Pete  
650 Hallenbeck.

651 VOTE: Unanimous

652  
653 Craig Benedict: The public hearing is open from November 22 until December 14 when they will say when will the Planning  
654 Board recommendation come back but they don't necessarily have to have another public hearing.

655  
656 Judith Wegner: Let's assume we recommend they have another public hearing and it will be February 28. When will they need  
657 a formal recommendation for that hearing?

658  
659 Craig Benedict: We would have to have it on February 1. On January 24, we would have to have our agenda item to the...

660  
661 Judith Wegner: Can you have an agenda item that is not the full manuscript of the material you are giving them so they can  
662 notice it?

663  
664 Craig Benedict: One week before, the chair and vice chair at least one week before February 1 to go on the agenda.

665  
666 Judith Wegner: It doesn't seem feasible if you have to give them a month before the hearing. Is it possible, knowing that we are  
667 getting them something, schedule it the last Monday in February without the full manuscript.

668  
669 Craig Benedict: If we have a continuation that is fine.

670  
671 Judith Wegner: This is what I think we should do. We advise the Board of Commissioners that we intend to work intensively in  
672 the month of January on Conditional Use Districts and Conditional Districts and the first half of February the stream buffers. We  
673 would endeavor to get written recommendations to them by the middle of February to allow there to be a continuation of the  
674 public hearing during the scheduled public hearing date at the end of February. We would ask the staff to confirm the viability of  
675 that schedule with technical requirements to satisfy all development aspects. We would advise the Commissioners that we think  
676 it would be well for them to be prepared to get acting on our recommendation once the public hearing is done.

677  
678 Samantha Cabe: I didn't think I heard consensus about an additional public hearing. My impression was the public hearings are  
679 for comment for additional work and if we have an additional public hearing at the end of February, there is not that much time to  
680 do much additional work.

681  
682 Brian Crawford: We haven't really explained it to them and that was the issue. The public hearing would be an opportunity to  
683 come back with this new enlightenment on the Planning Board and do a better job explaining it.

684  
685 Judith Wegner: If there were to be any change in the draft to make it available to people ahead of time so they can respond to it.  
686 In so far as that public hearing was held open so that there could be additional commentary if desired that made it more flexible  
687 to allow people to speak to these issues. The other possibility would be that if they closed that hearing with a revised draft. If  
688 done that way it will be a longer span and if it is a continuation existing hearing I would assume we would have to make  
689 additional revisions in March.

690  
691 Larry Wright: Some of the comments were they didn't get the November draft in time to look through the 800 pages to see what  
692 was there.

693  
694 Samantha Cabe: If we were addressing this in our January meeting, it would be without .....

695  
696 Mark Marcoplos: Isn't that the Commissioner's responsibility to deal with the public hearing process?

697  
698 Craig Benedict: The public needs additional information. They didn't make any substantive comments yet. We need to do a  
699 presentation to the general public so they can make substantive comments and I think the public hearing remains open until it's  
700 closed when the Commissioners vote. We keep the public hearing open until March when they do vote on it and we have a  
701 public outreach meeting. If we can do a public outreach meeting before the end of January then we can give the public another  
702 two weeks to put their formal comments in. Then the Planning Board can consider those comments.

703  
704 Brian Crawford: That is a suggested revision to your motion ...

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Larry Wright: I would like to second her motion.

Brian Crawford: You had your motion on the ground so... and it's seconded.

Judith Wegner: It's ok

Andrea Rohrbacher: I had a question. In your motion you didn't say anything about presentation to governing bodies within the County, does that need to be included in there?

Judith Wegner: That's a good point, I guess I was taking that for granted. So let me try one more time.

**MOTION** made by Judith Wegner that the Planning Board 1) expresses its intent and desire and commitment to work in detail with conditional districts of conditional use districts by having two meetings in January and to address stream buffer issues early in February. 2) We recommend the staff meet with any of the interested other municipalities in the County during the month of January to provide them with information and solicit their input. 3) The Planning Board commits itself to submit to the Commissioners substantive recommendations by the middle of February so the Board of Commissioners can determine what they would like to calendar further discussions of those matters for the end of February scheduled hearing. 4) That we recommend the planning staff hold an additional outreach meeting by the end of January to inform the public more fully about issues particularly with conditional districts and conditional use districts. 5) The Planning Board further commits itself to develop a proposal for the priorities along the continuing issues to be considered part two of this process and will advise the Board of Commissioners of its recommendations by the end of March.

Samantha Cabe: I think it is important to include our recommendations about Phase 2 earlier than late March because I think they need to have that information when they vote on the first Phase. Judith's proposed motion has gone back to extending this timeline into March.

Judith Wegner: I will modify to say the middle of March but I don't see how we can do a decent job on that and get the rest of this work done if we had extra meetings in January and we want any kind of commentary that will come in at the meeting at the end of January, I don't see how we can do justice to that at least until the end of March.

Brian Crawford: We are going to meet twice in February though.

Judith Wegner: What about if I say no later than the middle of March.

Brian Crawford: Don't we want it on the March agenda so it would have to be at the end of February.

Judith Wegner: I personally don't think we can do it because we need to get the stuff from the consultant. We will probably want to have considerable discussion about that. I think we will need until the first of March to look at that.

Mark Marcoplos: Totally agree. That is a good timetable.

Judith Wegner: If I say by mid-March, I really think we can't get it done.

Samantha Cabe: I think we are pushing this out and risking getting entangled in the budget.

Tom Altieri: I think we have captured with notes what the Board would like to do but would it be to put that in format. Something similar to what we provided in you packet and work with the chair and vice-chair to make sure that accurately captures the motion so we use that as a tool.

**MOTION** made by Judith Wegner that the Planning Board:  
Number 1) that the Planning Board expresses its intent and desire and commitment to work in detail with Conditional Districts and Conditional Use Districts by having two meeting in January and to address stream buffer issues in a meeting early in February.  
Number 2) that the Planning Board recommends that the staff meet with any of the interested other municipalities in the County during the month of January to provide them with information and to solicit their input.  
Number 3) that the Planning Board commits itself to submit to the Board of County Commissioners substantive recommendations by the middle of February so that the Board of Commissioners can determine whether they would like to calendar a further discussion of those matters for the end of February scheduled public hearing.

764 Number 4) that the Planning Board recommends that the planning staff hold an additional outreach meeting by the end of  
765 January to inform the public more fully about issues, particularly Conditional Districts and Conditional Use Districts.  
766 Number 5) that the Planning Board further commits itself to develop a proposal for the priorities among the continuing issues to  
767 be considered in part two of this process and will advise the Board of County Commissioners about its recommendation by mid  
768 March on that point. Seconded by Larry Wright  
769 VOTE: 9 – 1 (Cabe opposed)  
770

771 Samantha Cabe: I interpreted the public outreach meeting as an attempt to do something earlier than a late February public  
772 hearing so that we could pass this to the Commissioners in the final format earlier than their March meeting rather than their  
773 February and I think that would be a better approach because of the timing of the beginning of budget discussion. I would hate  
774 to see all this work done and be extended to late March and eventually be caught up in the budget discussions and not pass.  
775

776 Judith Wegner: For clarification, the intent of the motion was to say get them the recommendation on matters we are taking up in  
777 January and February by the time of the extended public hearing at the end of February if they want to do that and what would  
778 come in March would be a Phase 2 recommendation for a second set of topics. Phase 1 of the report followed by Phase 2 of the  
779 report so they could act on it.  
780

781 Samantha Cabe: I guess I am unclear. I was thinking in our March proposal that we would have the recommended UDO to  
782 them for their February meeting for them to vote on and their February meeting is before the February 28 public hearing so I  
783 heard staff's recommendation as doing a public outreach in January ....  
784

785 Brian Crawford: The motion has been carried. If we find we are making progress on this we can always amend this to a shorter  
786 time frame. This is what we are proposing to the Commissioners.  
787

788 Judith Wegner: The thrust of last week's meeting was the Commissioners agreed we should take the time we need.  
789

790 Larry Wright: In the News of Orange I saw UDO and was itemized out and it was Hillsborough's UDO and it was the major  
791 elements there and was well presented. You may want to look at it.  
792

793

- 794 **AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS**  
795 a) Board of Adjustment  
796 b) Orange Unified Transportation  
797 c) Efland-Mebane Small Area Plan Implementation Focus Group  
798

799

800 **AGENDA ITEM 10: ADJOURNMENT**  
801

802 **MOTION:** Judith Wegner made a motion to adjourn. Seconded by Brian Crawford  
803 **VOTE:** Unanimous  
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Brian Crawford, Chair