

MINUTES  
ORANGE COUNTY PLANNING BOARD  
MARCH 2, 2011  
REGULAR MEETING

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59

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

MEMBERS ABSENT: Mark Marcoplos, At-Large, Bingham Township; Tommy McNeill, Eno Township Representative; Vacant-Little River Township Representative;

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: Roger Waldon, Clarion Associates; Dolly Hunter, Bonnie Hauser, Marilee McTigue, Linda Finch

*Documents handed out by staff: Preamble to Post Quarterly Public Hearing UDO Planning Board Meeting of March 2, 2011; Unified Development Ordinance (UDO) Attached Additional Materials from Public Hearing; Staff Recommendation Regarding PID (Public Interest District)*

*Document received via fax at 7:14 p.m. Wednesday, March 2,2011 from Commissioner Alice Gordon and distributed to Planning Board: Memorandum to Orange County Planning Board – Proposed Development Ordinance Comments and Suggested Changes*

*Document handed out by Clarion Associates: Orange County NC, Code of Ordinances Appendix A-Implementation Bridge*

*Visuals used during meeting: Conditional Use Zoning Chart, Orange County Land Use Map*

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

Brian Crawford: Good Evening, this is the March 2<sup>nd</sup> meeting of the Orange County Planning Board. This is the call to order.

**AGENDA ITEM 2: INFORMATIONAL ITEMS**

- a) Next Regular Planning Board Meeting scheduled for Wednesday, April 6, 2011
- b) Planning Calendar for March and April 2011

**AGENDA ITEM 3: APPROVAL OF MINUTES**

Brian Crawford: Are there any additions to the minutes?

MOTION made by Rachel Hawkins to approve the February 2, 2011 minutes. Seconded by Alan Campbell.

VOTE: Unanimous

**AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA**

Alan Campbell: I'll raise one. This is one I emailed about and I am not sure if it's feasible but let's go ahead and briefly talk about it. This is a matter that was presented at the public hearing Monday night. It's an applicant that has requested an amendment to the text of the existing Zoning Ordinance and the gist of it was at the meeting there was discussion of the possibility that there might be an agreement from staff on recommending it. It sounded like there was still going to be some further delay and I wondered if there was any way to get it on our agenda since it still has to go back to the County Commissioners. I emailed about that and I think that response from staff was that it may not be feasible. I will throw it out there.

60  
61 Brian Crawford: Well, why don't we do this, if time permits we will add it on to the end of the agenda. If we can get to it we will  
62 and if not we will put it over to the next session.

63  
64 *(Michael Harvey handed out copies of fax received from Commissioner Gordon)*

65  
66 **AGENDA ITEM 5: PUBLIC CHARGE**

67  
68 **Introduction to the Public Charge**

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

76  
77 **PUBLIC CHARGE**

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

84  
85  
86 **AGENDA ITEM 6: CHAIR COMMENTS**

87  
88 Brian Crawford: I have a couple of comments and I think that I will just go right into it. It was clear to me after Monday night that  
89 we are going to have some difficulty getting through this first phase unless the Planning Board decides to take some definitive  
90 action tonight. Looking back at this, we've been going at this for about two years and we've had some disagreement but I think  
91 we got to a point where we were ready to move this document on to the next phase. I think Monday night that was derailed. My  
92 feeling is that if we don't do something definitive, we are going to keep going back through the cycle over and over again. I am  
93 hoping after tonight and I think the staff has done a good job, I had a chance to look at what they plan to do tonight, I think they  
94 had a good job of highlighting the suggested changes based on what we heard Monday night. If we can come to some sort of  
95 agreement on those items put forth, I'd like to say that we send a message to the Board of County Commissioners that we have  
96 done all the edits that we are willing to do on Phase I. We are going to send it to them with the hope that they vote it up or vote it  
97 down that we don't want to take Phase I back under consideration. We have to force them to make a vote on it. If they decide to  
98 vote it down, then that's another issue but we can't keep these micro managed edits going on forever. I hope you will join me in  
99 doing that tonight so that we can send a strong message to have them, on April 5<sup>th</sup>, deal with this.

100  
101 Larry Wright: Can I make a motion?

102  
103 Brian Crawford: Sure.

104  
105 Larry Wright: I would like to make a motion that we do exactly what the Chair said. That we agree with the Chair.

106  
107 Brian Crawford: Do I need to restate it?

108  
109 May Becker: Can you restate it?

110  
111 Brian Crawford: I'd like to, after we go through the staff's presentation of Monday night's additional comments, when we come to  
112 some agreement this evening about those comments that we send a message to the Board of County Commissioners that we  
113 are finished with our edits and consideration of Phase I and that we'd like them to vote it up or vote it down. We are not willing to  
114 receive it back for additional edits and comments.

115  
116 May Becker: I would like to ask, finished with the edits and voting it up or voting it down, in other words, I have brought up some  
117 questions before about certain sections that we didn't discuss and such. So you are essentially suggesting if they, for the sake  
118 of understanding, vote it down then what will the process be after that?

119  
120 Brian Crawford: What I am saying is we have to get them to take some action on Phase I. The point is to have them decide on  
121 Phase I. Vote to approve or turn down Phase I. If they turn it down then I won't even guess on that yet but I don't think we've  
122 gotten to a point where they have actually voted. The comments that we have received, we've seen a lot of comments from one  
123 or two Board members but nothing from anybody else. It seems like the Board is ready to take a vote on it. I think we've got to  
124 move them to that point. We can't keep having meetings on it. I think we have discussed this fairly and thoroughly amongst  
125 each other for a long time now. We may not agree on every point but we've had a discussion and everybody has been allowed  
126 to be heard. I think what their directions were to us have been carried out, the direction and the mission. We need to have them  
127 vote on it.

128  
129 May Becker: I understand what you are pointing out, I guess my comment is that there are parts that I feel that the Planning  
130 Board hasn't really examined. I understand what you're saying in terms of being a volunteer board and we do as much as we  
131 can in that area. On the other hand, there are parts of the rural buffer and such that I think there are some concerns about those  
132 areas that we didn't really look into in a whole lot of detail.

133  
134 Brian Crawford: Does anybody else have any comments?

135  
136 Alan Campbell: I actually have a question for clarification for the record. As far as what we are voting on right now, are we going  
137 to have a vote at the end of the night or are we going to vote now and then agree on what the changes are?

138  
139 Brian Crawford: What we are voting on is Larry's motion, the general idea. We're still going to have that discussion.

140  
141 Alan Campbell: For purposes of discussion on the vote, I'll go ahead say I don't see need for any changes, personally. I am  
142 definitely in favor of pushing it forward.

143  
144 **MOTION:** Larry Wright moved that the Board adopt the Planning Board Chair's position with respect to responding to the  
145 commissioners on this item. Seconded by Rachel Phelps Hawkins.

146 **VOTE:** 7-1 (Becker opposed)

147  
148 (Andrea Rohrbacher arrived)

149  
150 May Becker: I want to make a comment on that, I see your point but I would have liked to be able to discuss some areas in the  
151 UDO before making the suggestion that all of it has been looked at in enough detail to be able to fully recommend or not  
152 recommend.

153  
154 Brian Crawford: May, I understand there are things that you are uncomfortable with about this. I fully understand and I don't  
155 think you're in any way prevented from bringing this up again as we enter into phase two. My only point is that we have, I know  
156 that at one particular meeting we gave you a lot of time to air your concerns about it and we didn't agree but you aired your  
157 concerns. The whole thing is that some are never going to agree and I think that's what's happening right now. There are  
158 members of the public that just don't agree on some of the language in this. I think once you have good discussion, good  
159 thorough discussion and it comes to a vote then you have to move on to the next phase. I think we've had good thorough  
160 discussion on this although we have not come to 100% agreement. That is my only point, once we have the discussion, we have  
161 to move on and vote it up or vote it down. If it gets voted down this stuff might all come back again but we can't get to that point  
162 we are constantly micro managing text edits.

163  
164 May Becker: Ok.

165  
166 Judith Wegner: I came tonight with a letter of resignation in hand because I found sitting there at that meeting on Monday night I  
167 felt that the Commissioners had not joined issue. We've had multiple open discussions, we've had work sessions, we've had a  
168 hearing in November, this Board had done an exceptional amount of work, I spent hours talking to Commissioner Gordon on the  
169 telephone, I felt that the process of good governance in terms of planning and the county was really arrived. I really thought the  
170 better course might be that maybe it's just me, this is going into my sixth year on the Planning Board and I care to give public  
171 service and I try to do it because it matters to me. I also try to be an example to my students and I tell every class I've ever  
172 taught that it is important to give public service but I felt that there really was not joining of issue by the Commissioners. I really  
173 also felt, frankly, abused that the hard work of this Board within the time frames that everybody had urged upon us had been  
174 carried through to the fullest extent that we could and yet we were left with half an hour of comments from one person, a few  
175 comments from other people but no sense about what collectively was envisioned by the Commissioners. I don't think that's  
176 very functional use either of the Commissioners process or of the volunteer process with the Planning Board so I have it here.  
177 This is my letter of resignation that I wrote there. I talked with a couple of you who are the longer term members of the Board

178 and I decided to try to stifle myself to get through this meeting at least but I also promised myself and I want to go on the record  
179 in the minutes so the Commissioners know at least somebody who has put a lot of time into this, not just this latest UDO but the  
180 comp plan, all the stuff we've done over all that time who's really spent time, who's tried to write and think and talk with citizens  
181 about it that I really think the process is not functional and that needs to be said. I feel strongly that was a great motion I  
182 appreciate the sense and I appreciate your view, May, that there are refinements that can be made but I really think we're in a  
183 loop pattern here that without some decisions being made on the board there's no point. So I thought why am I coming here, I've  
184 got a flight out of town at 7 in the morning and I still have stuff I have to get done tonight before I leave but I am here tonight  
185 because I think it matters. I appreciate the citizens' who came out on Monday night; I appreciate the staff having had multiple  
186 sessions with various constituencies. I appreciate everybody having to put their heads to this, it's a very bulky document, it's  
187 very difficult to go through it all and feel like it's in the shape we want but that's one person's view and I felt that since that was on  
188 my mind and since I've been carrying this letter around that it should in fact be said. That's my comment.  
189

190 Larry Wright: Can I make a comment? I also would like to state that there have been times when I was ready to tender my  
191 resignation on a previous project long ago and during this one. If it hadn't been for the Board of Adjustment where I really feel  
192 that I am doing something for the people, I felt that I was treading water as well. I would like to also state that we have people  
193 around us that are experts. I would hate to pay the billable hours that is tapped into Judith on these very issues that we've talked  
194 about and her email was so helpful. I think that if anybody had ever asked Judith Monday night about any of these issue that  
195 were addressed, I think the public did a fantastic job, but nobody has tapped Judith. We have Pete, he is an expert, and I would  
196 hate to pay his billable hours. When it comes to telecommunications I certainly hope that we tap his knowledge. We have  
197 infinite amount of knowledge at this table and I think it goes untapped. I find that very frustrating and I am not putting blame  
198 anyplace but I do believe that the Commissioners represent us (citizens). They are there by popular vote. I understand Judith's  
199 frustrations and I identify with it.  
200

201 Brian Crawford: Any other comments? Ok, what I suggest we do is to have staff go over the important points that arrived out of  
202 Monday's meeting and let's talk about them, present them to the Board with your suggestions on what we should do next.  
203 There's one thing, and I want to go back to a comment you made Larry about this issue about the preamble, somehow when we  
204 get to this preamble piece, we really have to take that document and unequivocally tie it back to the Comprehensive Plan even to  
205 go so far as to say that when in doubt the Comprehensive Plan prevails. I think the Comprehensive Plan, and I kept hearing this  
206 Monday night in various ways, that this got away from the Comprehensive Plan or this got away from the original document. We  
207 have to let them know, and I know in my history and I'll say it again, we worked so hard on that Comprehensive Plan that we  
208 meant that document to be the document for Orange County. If the UDO in some way conflicts or is there is some language in  
209 there that is not respectful of the Comprehensive Plan then we've got to let the public know that this in no way conflicts with the  
210 Comprehensive Plan. I think that is important.  
211

212 Samantha Cabe: Isn't there a statement in the beginning of this document that this is to be construed under the....  
213

214 Larry Wright: 1.1.7  
215

216 Samantha Cabe: I don't mean to sound flippant but why do we need to say it in every paragraph of this document and double  
217 the size when it is set forth in the very beginning of the document. If the people who are so concerned about it have read this  
218 and probably haven't even read the Comprehensive Plan all the way through I don't understand it. When it says it at the very  
219 beginning of the document that the document is to be construed within...  
220

221 Brian Crawford: There was one point where one of the Commissioners actually said that yes, it's in one and two but because it's  
222 not in three it sounds like three is not acknowledging the Comprehensive Plan and she went on a whole discussion about that. I  
223 don't know what else we have to do but somehow we have to let them know that yes it is the Comprehensive Plan that is the  
224 major document.  
225

226 Larry Wright: I was the one who suggested the preamble and then we came back at another meeting and I believe it was  
227 Shannon and/or Craig and maybe Perdita chimed in and said it says it here. I respect that because I worked on the  
228 Comprehensive Plan and remember we were trying to keep it so it wasn't so thick, to keep it manageable. Remember that?  
229

230 Brian Crawford: I do.  
231

232 Larry Wright: Hey they (staff) are dead on and I believe that's right. If you keep putting these in at every section then you have a  
233 document that keeps growing.  
234  
235  
236

237 **AGENDA ITEM 7: UNIFIED DEVELOPMENT ORDINANCE (UDO):** To discuss any new information that came forward at the  
 238 February 28, 2011 Quarterly Public Hearing and address or take action on the information as needed.  
 239 *Presenter: Planning Staff*  
 240

241 Craig Benedict: I thank the Planning Board and the public for attending Monday night's meeting. That is part of the process that  
 242 had been suggested by the Planning Board at your December meeting. You set a very good schedule in December and on  
 243 December 14<sup>th</sup> the Commissioners said, yes take another look at it, get more public input, send notes out to the local  
 244 governments, have the deadline for comments come in on February 2<sup>nd</sup> from all sources so that when you made your decision  
 245 on February 2<sup>nd</sup> to date, you had the full breadth of the public comment at that time. That process that was approved also  
 246 mentioned a continuation of the public hearing to February 28<sup>th</sup> which was Monday and that was to hear additional comments,  
 247 hopefully new comment that hadn't been addressed previously, and at Monday night's meeting we had speakers that staff took  
 248 copious notes of to try to get their issues and concerns. At the end of that discussion of people suggesting revisions and  
 249 concerns the Commissioners, and I might not get this motion exactly right, they said we do not expect the Planning Board or the  
 250 planning staff to answer every question that came up at the meeting.  
 251

252 Brian Crawford: That's true.  
 253

254 Craig Benedict: We expect these general themes or general concepts that if there is some way to address these general issues  
 255 at your next meeting, so that we can stay on schedule, please feel free to take a look at a few areas. Staff diligently, did  
 256 definitely more work than I did over the last couple of days to try to reduce those general overarching themes to something that  
 257 we have suggested in the document called 'Preamble to the Post Quarterly Public Hearing'. These are not staff  
 258 recommendations. We are not forcing this on you but if you do want to consider these topics that I am about to discuss we think  
 259 they are acceptable and we think they do address some of those broad general issues where there was concern and the  
 260 Planning Board can proceed with them if you like. That is what we wrote in these overarching themes. We thought one and two  
 261 on this sheet were the two general categories that were of issue. One was about when people review rezoning in the future,  
 262 whether they view those General Use Districts or those Conditional Districts, and those Conditional Districts as we have heard  
 263 include Conditional Use and master plan development and other conditional zoning districts, that there needs to be a stronger  
 264 link to the Comprehensive Plan. We heard what you said Samantha, we actually stated in the meeting where we had recited that  
 265 yet that's what we heard. We thought we are going to add it to another section so in Attachment 1, we added something within  
 266 the text in Article 2 so in page 2 of that attachment everything that is in blue there we said when considering Conditional Zoning  
 267 Districts, again the policy of the Comprehensive Plan shall be considered. The policies and objectives of adopted Small Area  
 268 Plans should be considered because that is like an extension of the Comprehensive Plan, and we shall consider the impacts that  
 269 occur from development. I think that is harmless. Is it a bit redundant? Possibly, but I think it is okay.  
 270

271 Samantha Cabe: I just want to make one comment because I do a lot of reading of statutes and there are rules of statutory  
 272 construction. I think that adding this to one section and not all sections is not necessarily harmless because I think an argument  
 273 can be made that either you have it at the beginning and you say it controls throughout the document or you put it in each  
 274 section. If you start putting it in occasional sections then the argument can be made that where it's absent that it doesn't apply. I  
 275 know that's not the intention and we still have the language in the beginning but I am saying that it opens the door to that  
 276 argument. You either put it at the beginning, say it applies to throughout, or you put it in every section if you want it to apply to  
 277 every section, you can't just throw it in where the public likes to hear it. That's just my opinion. The way I would read it from a  
 278 legal point of view.  
 279

280 Craig Benedict: Understandable, we put a little kind of disclaimer at the bottom of our preamble. It says additional evaluation  
 281 may be necessary in UDO Phase 2 to determine the relationships, possible conflicts with other portions of the UDO, and  
 282 potential enforcement issues but in this case we think that we did mention it with Conditional Use, we did mention it with in  
 283 General Use rezonings this language, and we didn't mention it as much in Conditional Zoning Districts so we are throwing it in  
 284 there. In this case, it wasn't just at the beginning we're popping it into section and what we are suggesting is that we would like  
 285 to be able to proceed with Phase 1 and we think this language is acceptable. In Phase 2 these areas where we have imported  
 286 miscellaneous regulations from multiple documents and packed it into one, in Phase 2 we'd really like to reexamine that material  
 287 and reduce it down but for now we think that's acceptable. The second part under rezoning considerations was the public asked  
 288 for additional guidance in the Unified Development Ordinance when this Planning Board reviews a rezoning application. Yes,  
 289 you can refer back to the Comprehensive Plan, you can look at all the goals, objectives, and policies in the Comprehensive Plan  
 290 and have that help you make decisions but we have actually taken some language from the existing Planned Development  
 291 section of our Code that was taken out because we thought the Comprehensive Plan adequately addressed these issues but in  
 292 the spirit of having something in front of you, we've added multiple paragraphs from Article 7 of our old Zoning Ordinance. That  
 293 had to do with relationship to thoroughfares, relationship to public utilities and services, and that type of information. That  
 294 information is in Attachment 4 of your handout. Everything in black there is from the previous Zoning Ordinance. We have

295 added some red in there because it reads better but all of these sections are not new writings; they are that additional language  
296 that will help the Planning Board and the Commissioners decide in Conditional Districts decisions.  
297  
298 Brian Crawford: I am looking at Purpose and Intent and you've got A, B, and C there.  
299  
300 Craig Benedict: We have a Purpose and Intent section now in Conditional Districts and we have added to Purpose and Intent.  
301 The majority of these aspects, paragraphs being added are those Purpose and Intent sections. The guidelines that help you  
302 make rezoning decisions. Our intent is not to reinvent what was in the old Code but it is language that is acceptable to bring  
303 forward.  
304  
305 Brian Crawford: This goes to the comment that there were things that were deleted from the Zoning Ordinance that were  
306 specific? Now in the new Ordinance they felt didn't get enough coverage.  
307  
308 Craig Benedict: Yes  
309  
310 Alan Campbell: Even though they are in the Comprehensive Plan?  
311  
312 Brian Crawford: Even though they are in the Comprehensive Plan.  
313  
314 Craig Benedict: This Board over time has really just dealt with those multiple zoning codes and subdivision codes and brought  
315 them all together. We haven't operated as strongly with that Comprehensive Plan at our side which we will in the future. That's  
316 why Comprehensive Plan, UDO, and then you move forward. I think we need to retrain ourselves and retrain the public to know  
317 that the guidance of your actions as you review developments permits specific language is in the UDO and explaining how you  
318 look at it is in the Comprehensive Plan. If there is an interpreted area then you refer back to the Comprehensive Plan for some  
319 of those guiding principles. That we will be using more and staff when reviewing a zoning application in the future will say it  
320 meets UDO standards and it helps fulfill some of the policies of the Comprehensive Plan. You'll see that linkage.  
321  
322 Alan Campbell: Are you saying that in Phase 2 if we haven't got back to this it should be pulled back out and made to be more  
323 efficient.  
324  
325 Craig Benedict: Possibly.  
326  
327 Alan Campbell: I hate taking a document that's nice and neat and you put so much work into it and sticking these things in that  
328 don't need to be in there just for marketing.  
329  
330 Samantha Cabe: Are you recommending this or just saying this could be put back in?  
331  
332 Craig Benedict: The general public kind of asked for this and at this time staff thinks it's acceptable. In our comment we are not  
333 saying you have to do this but if you want to address these overarching themes, we think it's acceptable.  
334  
335 Larry Wright: First of all I think I have two comments and one is that I was alarmed and distressed that the county attorney has  
336 not really read through this document.  
337  
338 Judith Wegner: You've got that right.  
339  
340 Larry Wright: I really am, I hate to say this but I think I do want this on the record. We had a previous county attorney that I think  
341 would have helped the public and helped the Board considerably through this process. I have not heard one comment from the  
342 new county attorney and I would not be able to recognize his voice. In fact he looked bored. I am stating that because we've  
343 had a lot of shedding here of frustration. I would just hope that when we go through this and we have a practicing attorney that  
344 raised a very good point here. I would really hate to go through this and then find out that we have to go through it again  
345 because the attorney had not read this and there are flaws that would make the County vulnerable legally. The second thing I  
346 want to ask is that in what you bring here Craig, and you brought before us, isn't that already in the UDO. Are we not just  
347 bringing in this language? Shannon, is this language that is original to what we have right here?  
348  
349 Shannon Berry: The language and the attachment is original to the Zoning Ordinance but it's in so many places throughout  
350 Article 7 and duplicated that bits of it may already be in the UDO but as presented to you as a whole, as far as how it's put in the  
351 Zoning Ordinance, you haven't seen it that way.  
352

353 Larry Wright: If I came to you as an applicant wanting something that was in the content here and there was an issue raised that  
354 I didn't see in here, wouldn't you as part of the planning staff, say yes here it is? Just like you would say, the Comprehensive  
355 Plan in section 1.1.7 says this.... so we must abide by the Comprehensive Plan? Wouldn't you refer me to this as an applicant if  
356 I came and said it's not in here and I don't see it in Section 8? You would say, yes but.....we must abide by this.

357  
358 Shannon Berry: Yes, we may not be able to pull it off the top of our head but we'd certainly be able to find it in the document to  
359 give to you; both this document and the Comprehensive Plan.

360  
361 Larry Wright: So my question comes back again, are we inserting this in here to please people or are we inserting it in here to  
362 make this document stronger? That's my question.

363  
364 Samantha Cabe: I think we all have our own idea of what the answer is but I don't want to interrupt your presentation but I am  
365 wondering, I would be willing to make a motion at this time that we vote not to include this language if you want to do each of  
366 your sections one at a time rather than waiting to the end.

367  
368 Brian Crawford: That's a good idea.

369  
370 Samantha Cabe: So that we know what we're voting on.

371  
372 Judith Wegner: This refers to Conditional Districts specifically, Attachment 4, you have crossed out PD meaning Planned  
373 Districts?

374  
375 Craig Benedict: Yes, that was the previous language.

376  
377 Judith Wegner: Right, so I want to be sure we're zeroing in on that. The Conditional Districts included in this set at the moment  
378 are Master Plan....mobile homes and public interest, right? The references to previous Planned Districts, it makes sense to be  
379 to then be thinking about major mixed use types of things being near interstates but if it's mobile homes, I don't know that it  
380 follows some of the same statements here would fit in the same kind of way. I know this is also another theme we are going to  
381 need to go back to in terms of some of the assumptions and some of what might be called floating zone type arrangements with  
382 master planned arrangements but what I am wanting to be sure about is this, is it redundant or worthwhile. It's really, if it's been  
383 lifted out of a context that isn't the current context, I am a bit concerned that we'd end up with some kind of a driving force by  
384 cutting and pasting at the last minute here. It may be an inadvisable way to go. Could you clarify that?

385  
386 Craig Benedict: (*Reviewed conditional zoning chart*) Presently everything that is being suggested here in the old 7.4 is being  
387 suggested to apply to the whole Conditional District section which includes the MPDs, the mobile home parks, those Conditional  
388 Zoning Districts, and Conditional Use which are those specific "I know what I want to do" with the Special Use Permit. This is  
389 applying to that global Conditional Districts heading for all those sections here. If we look at a mobile home park which is a  
390 Conditional Zoning District and it says relationship to interstate highways, you still have the ability to say it's applicability for the  
391 specific petition or application.

392  
393 Judith Wegner: I don't know what you just said but I am increasingly worried that this is boiler plate that's going to be  
394 expansively applied. That we're not really given that this is coming at us right now without a chance to go back and crosswalk it,  
395 makes me uneasy.

396  
397 Brian Crawford: You're right, we're trying to piecemeal it in at the last minute that could be dangerous and have unintended  
398 consequences.

399  
400 **MOTION:** Samantha Cabe moved that the Planning Board reject the inclusion of the language that's suggested in Attachment 1  
401 and Attachment 4 of the Preamble to the Post Quarterly Hearing UDO Planning Board Meeting and not recommend these  
402 changes to the UDO. Seconded by Alan Campbell.

403  
404 Samantha Cabe: That's my motion but let me state my reasons for that on the record. First of all, it's not necessary because the  
405 Comprehensive Plan is referenced at the beginning of this document and it is indicated that this document should be construed  
406 within the confines of that Comprehensive Plan. Secondly, I agree with Judith that the Comprehensive Plan is designed to be  
407 just that, comprehensive and the language that is being suggested to be added here was not lifted from the Comprehensive Plan  
408 but rather a specific part of the former Zoning Ordinance which when it was originally drafted was likely drafted for a specific  
409 purpose or sections even though it might have been a broad purpose or section it was not intended to be, quote, unquote,  
410 comprehensive. I think a lot of time went in to developing the Comprehensive Plan to make it just that what it is intended to be  
411 the big picture and we shouldn't take a snap shot of a smaller picture and try to make it into something that is comprehensive;

412 especially when it is already there. Thirdly, just from a practical point of view, this is already a very complicated document and to  
413 keep restating things that mean the same thing over and over but using different language just makes it more complicated. I feel  
414 like, though I missed the public hearing, that a lot of times the public doesn't have the big picture as far they focus on one little  
415 thing. Yes, this language is missing from the Conditional Use section in the new UDO but they missed that link to the  
416 Comprehensive Plan. They maybe didn't understand the difference in applying it comprehensively and rather than try to  
417 piecemeal it into different sections. That's my reasoning behind my motion and why I think we should reject adding this language  
418 though I appreciate staff rushing to put this together.

419  
420 Brian Crawford: Is the motion seconded that the staff suggestions to revise the language be rejected? Any further discussion?  
421

422 **MOTION:** Samantha Cabe moved that the Planning Board reject the inclusion of the language that's suggested in Attachment 1  
423 and Attachment 4 of the Preamble to the Post Quarterly Hearing UDO Planning Board Meeting and not recommend these  
424 changes to the UDO. Seconded by Alan Campbell.

425 **VOTE:** Unanimous  
426

427 Craig Benedict: That's great progress, thank you very much. Item 2 on the Preamble to the Post Quarterly Hearing UDO  
428 Planning Board Meeting has to do with Conditional Districts but a specific type of Conditional District and that is Master Planned  
429 Developments also known as MPD-CZ. There was concern expressed by the public and a Commissioner that these Master  
430 Planned Development are typically larger scale and there is some unknowns in there because you do not see final site plans.  
431 They may be more appropriate in some of the urban sections of the County, urban transition areas as we call them, economic  
432 development zones, commercial industrial nodes, and less appropriate for the rural areas of the County. Just to recap, there are  
433 roughly two categories under Conditional District; Conditional Use, we're still suggesting that Conditional Use Districts can be  
434 used in the rural areas of the County, and of course they can be used in the urban areas. Conditional Use Districts, there's a lot  
435 of them that cannot be asked for there were 31 exclusions and there was another 40 commercial and industrial uses that are not  
436 allowed in this green area (*of the Orange County Land Use Map*) if there is a critical area or protected area from University Lake.  
437 There are 40 further exclusions from Conditional Use Districts in those purple areas. Conditional Use can still be requested in  
438 these areas. What we're suggesting where these MPDs, which do not include a site plan and do not include a Special Use  
439 Permit, that at least in Phase 1 they be linked to our urban county areas where there is the intention of public water and sewer  
440 and also in our staff recommendation that they be in other higher intensity land use areas such as our Rural Activity Nodes or  
441 rural nodes. If there's not going to be public water and sewer in those rural nodes but we think there is some consistency with  
442 the intention in our minimal rural activity areas (pointed out on Land Use Map) that MPD-CZs could still be allowed in those rural  
443 nodes and all of the urbanizing areas.  
444

445 Judith Wegner: What you gave us only references, does not reference the smaller ones it's only the larger ones. It says Rural  
446 Activity Nodes.  
447

448 Tom Altieri: That encompasses both.  
449

450 Judith Wegner: Could you refer to what is the difference between community and neighborhood?  
451

452 Michael Harvey: Typically, the answer to that question is size, both rural neighborhood and rural community activity nodes allow  
453 for LC-1 and NC-2 zoning designations.  
454

455 Judith Wegner: I thought that was about scale of development and the compilation patterns there so I don't understand why the  
456 smaller sense of these...I'd prefer to split it at the larger ones if this is a first phase implementation. I think the smaller ones need  
457 to be thought through with those communities more....  
458

459 Craig Benedict: That's acceptable.  
460

461 Judith Wegner: So what would the terminology be then compared to what you have here as rural....  
462

463 Craig Benedict: Rural Community Node.  
464

465 Samantha Cabe: I'm missing something here, do all the standards that go along with the different, for example the acreage that  
466 can be zoned as commercial would within a Rural Activity Node, is all of that disregarded when someone applies for an MPD-  
467 CZ?  
468

469 Craig Benedict: Yes, there is a limitation in at least the White Cross Node, Rural Community Node, as 10 acres now as allowed  
470 of NC-2 and 10 acres of LC-1. There was when we passed that new ordinance we said if by legislatively and somebody asked

471 for, in that case it was a PD but now it will be Conditional District, you can exceed that limit. We thought that it could be  
472 exceeded because they have to request. They have to specifically request back to the Commissioners and it's not a by right.  
473 That's why it can exceed that area.

474  
475 Samantha Cabe: Really what does this amendment do to what is already there?  
476

477 Craig Benedict: What this amendment does is to focus Master Planned Developments which have to be at least five acres in  
478 size, it focuses them in our urbanizing sections of the County. It doesn't allow a wider distribution of a master planned  
479 development.  
480

481 Brian Crawford: What was this comment made that the MPD-CZ could be put out in Cedar Grove on a farm somewhere and be  
482 approved. That was the comment that was made.  
483

484 Craig Benedict: What we kind of heard from the public, Master Planned Development will give a specific list of uses but you  
485 won't see exactly what's going to happen there so there's a little more speculation. We think the application of MPDs will most  
486 likely be in an urban area so it's not like we're forcing things out of an area. We do think that's an important economic  
487 development tool so we want to at least preserve them within those urban transition areas of the County and the Rural  
488 Community Nodes.  
489

490 Pete Hallenbeck: The speedway area that's been brought up by public comment, is it in any of those areas or is it in the green?  
491

492 Craig Benedict: A recommendation of that Small Area Plan was to create another zone, like another Rural Community Node and  
493 we'd have to add that to the map then it would allow different mixed use.  
494

495 Pete Hallenbeck: That was my concern with this. There has been a lot of talk about that and I've been in that area and it seems  
496 like it's a new emerging economic area. I wanted to make sure it wouldn't block it out and by way of restating to make sure I  
497 understand the Small Area Plan for the speedway area would allow this to happen.  
498

499 Craig Benedict: Yes, it would inform that in that and there are recommendations on hold from the Plan that would begin to  
500 proceed with if we get Phase 1 out. You are correct.  
501

502 Alan Campbell: So the old Planned Development procedure could be done in the green?  
503

504 Craig Benedict: Previously, yes.  
505

506 Alan Campbell: Now we're taking that away, part of it.  
507

508 Craig Benedict: Part of it.  
509

510 Alan Campbell: We're making it more restrictive which is really a Phase 2, theoretically, adjustment but staff is recommending it  
511 now. I'm okay with this...  
512

513 Brian Crawford: The thing is if we go back to that Comprehensive Plan and one of the language that the Comprehensive Plan  
514 puts forward is that new development is either going to be a Small Area Plan or the transition area.  
515

516 Alan Campbell: Practically speaking, you couldn't do it because of the Comprehensive Plan.  
517

518 Brian Crawford: Right, when someone comes in with a proposal like that we say, look this is not what the Comprehensive Plan  
519 had in mind.  
520

521 Alan Campbell: If we left it in it would override the Comprehensive Plan or not?  
522

523 Brian Crawford: No.  
524

525 Alan Campbell: So we've already got that limitation.  
526

527 Brian Crawford: Right, I guess the point about this whole exercise.....  
528

529 Samantha Cabe: A transition area in a comprehensive plan, let's say there's an area that is currently zoned in the green zone  
530 but it is on the edge of urban development, this change would require someone who wants to do a Master Planned Development  
531 there to first have it rezoned to something that would then allow them to apply for a master planned development?  
532

533 Craig Benedict: If it was not in a transition area on the Land Use Plan, they would have to ask to change the Land Use Plan first  
534 to expand that area. This, MPD, could only be requested in a transition area on our Land Use Map. We're suggesting that in  
535 Phase 1 to understand, the MPD construct I would say isn't completely new but it hasn't been used much and we think for Phase  
536 1 and for a time period this would definitely help our economic development zones and other urban transition area. If that's  
537 where you want to focus activity this will not hurt.  
538

539 Larry Wright: Can you address this in terms of promoting, not promoting, or not even affecting sprawl?  
540

541 Craig Benedict: With the suggested amendment, it would be an anti-sprawl device. It would be limited in area and focus in  
542 areas where we expect higher intensity. Further, MPD can be a little more speculative and you want speculation in growth  
543 areas. You don't want speculation in rural areas. It does hold together that these would be better suited in your urban transition  
544 areas. This definitely does not promote sprawl. It would probably be more an anti-sprawl.  
545

546 Larry Wright: Does the existing content here promote sprawl?  
547

548 Craig Benedict: No, definitely not. We have a very strong Land Use Plan, urban growth boundaries, limitations on our water and  
549 sewer. As I said in my presentation on Monday, we have a lot of layers of planning here in Orange County and the focus of  
550 activity, based on our water and sewer management planning and boundary agreement, is a major anti-sprawl device.  
551

552 Larry Wright: So then what we are discussing here and what Samantha was addressing, there is not much difference? What is  
553 the difference between this and sprawl (*November Public Hearing Draft UDO*) and this with sprawl (*Amendment-Attachment 2*)?  
554

555 Craig Benedict: The addition would be stronger anti-sprawl. The way I talked to staff about it was planning can be push and  
556 pull. You can push it away from an area and you can pull to an area. This pulls it to a growth area. That's what it does, the way  
557 it is now...  
558

559 Larry Wright: This meaning the change here?  
560

561 Craig Benedict: The MPD, yes. This pulls it to a growth area because it's the only area that...indirectly it pushes it out of the rest  
562 of the green area. It's a pull mechanism.  
563

564 Larry Wright: But in practice?  
565

566 Craig Benedict: In practice we have a very good document there. It was before, it will be better when adopted. This is just  
567 being suggested because there were some unknowns that the public was not as comfortable with regarding Master Planned  
568 Developments so we thought we would narrow down its location at least in Phase 1.  
569

570 Larry Wright: Thank you.  
571

572 Judith Wegner: I want to put a motion forward to adopt the language in Attachment 2 as revised to strike 'Rural Activity Nodes'  
573 and instead put 'Rural Community Nodes'. If there is more discussion I can wait on it.  
574

575 Alan Campbell: Is this the extent of the amendment? It can just go in?  
576

577 Craig Benedict: That's correct.  
578

579 Samantha Cabe: Was there a purpose, did staff have a purpose in allowing MPD-CZs to be throughout the County when they  
580 drafted it that way or was it just that you made it that way without really thinking about it needing to be limited? The reason I'm  
581 asking is that if there was a purpose for allowing it throughout the County I want to know what that is to know whether it's a good  
582 idea to limit it or not.  
583

584 Craig Benedict: Relatively simple. PDs were allowed all over and PDs were our weak explanation of what now is three different  
585 things and so we didn't want to start wandering too far from the PD but PD did not explain as clearly as we would have liked in  
586 the past these Conditional Zoning Districts, Conditional Use Districts so we threw it there because it was kind of where it was  
587 placed before.

588  
589 May Becker: I second the motion.

590  
591 Alan Campbell: Can I ask you to restate it again.

592  
593 Judith Wegner: In Attachment 2 I move that we strike the words Rural Activity Node and substitute Rural Community Nodes,  
594 that's the larger and not larger and smaller areas and the reason for that is I don't think the on-the-ground plans for those smaller  
595 neighborhoods have been done sufficient to extend this kind of thing in those.

596  
597 Samantha Cabe: So that motion is to approve that with that change?

598  
599 Judith Wegner: Yes, that's correct

600  
601 **MOTION:** Judith Wegner moved that the Planning Board approve the amendment but strike the words Rural Activity Node and  
602 substitute Rural Community Nodes in Attachment 2. Seconded by May Becker.

603 **VOTE:** Unanimous  
604

605 Craig Benedict: Staff is not suggesting any others changes based on what we heard from the public hearing. I will explain what  
606 other things we heard at the public hearing that are addressed in item 3, we did an Attachment 3 there were questions about  
607 watersheds, this is what we heard from Carrboro and Chapel Hill. There was question about watersheds and uses and there  
608 were questions about waste water treatment systems. I'll just give you a global statement, we have not changed any designation  
609 for watersheds in Orange County as a product of this Unified Development Ordinance. What is critical is still critical, what's  
610 protected is still protected, what is unprotected is still unprotected. As you know from our stream buffer discussion, Orange  
611 County designates more critical areas than even the state designates by far. It's not that we're meeting any minimum  
612 requirements on watersheds so in issuing response part of this that we'll be sending to the public and to the local governments  
613 will explain that it was not our intent to change watersheds, it was not our mission or intent to change the great watershed rules  
614 that we have presently.

615  
616 Judith Wegner: Craig, could I say I appreciate that point but it's what we just did in so far as we limited, I think people's concern  
617 was with the master plan stuff not mobile homes, not PID situations which we'll get to later, but what we just did with economic  
618 development districts and larger Rural Community Nodes those are in any of these watersheds are they? So in a sense by  
619 having narrowed that, I think it can be taking care of part of this... you were referencing something along the lines of was the  
620 concern that regulations had changed or did boundaries changes?

621  
622 Craig Benedict: It just seemed someone had wanted us to expand prohibited uses into other watersheds, such as Upper Eno  
623 Protected and Cane Creek Protected so we just wanted to state that we haven't changed any watershed shapes by virtue of this  
624 and as I mentioned earlier we have actually prohibited 31 uses from Conditional Districts so we have actually tightened up more  
625 that anything. When we send these responses back to local governments and the citizens I think some of the citizens saw it at  
626 the public hearing on Monday all that red and yellow which out of 111 uses, 81 of them are gone in the majority of these areas.  
627 They probably didn't understand that and I think that will be part of the explanation. Our response is that the watersheds haven't  
628 changed and we have a high degree of exclusions within that area.

629  
630 Brian Crawford: What was the issue about the old text in the waste water treatment?

631  
632 Michael Harvey: We have in the current Orange County Zoning Ordinance, Section 6.20, a prohibition on groundwater  
633 absorption systems over 3,000 gallon capacity within the AR and RB zoning districts without the issuance of a SUP. Essentially  
634 if it's 3,001 gallons a day treatment system, you have to have an SUP before you can do it. We don't have a definition of  
635 groundwater absorption system in the Ordinance and our big problem was we had to argue with applicants who may have a 4 or  
636 5 thousand gallon a day system that they argued, and we didn't have anything to back it up, that we are not a groundwater  
637 absorption system, you can't touch us. So in working with Environmental Health we developed a definition for wastewater  
638 treatment facilities, changed the name from groundwater absorption to wastewater treatment because it actually is a broader  
639 designation and would subject more septic systems to having to get a Special Use Permit if they happen to be over 3,000 gallons  
640 a day. What we've done in the UDO is provide a definition more consistent with state statute, more consistent with suggestions  
641 from Environmental Health, and basically require more systems that could go over 3,000 gallons to have to get a Special Use  
642 Permit from the County Commissioners if they are going to locate in the Rural Buffer or the AR zoning districts.

643  
644 Shannon Berry: I would like to add that the text said either a Special Use Permit or Planned Development and since we will no  
645 longer have Planned Development we will only change Planned Development to Conditional Use.

646

647 Craig Benedict: It is a broader definition that creates more restrictions. Again, that full context of the document and how its used  
648 with a better understanding of it shows that we are tightening our regulations especially in the Rural Buffer and AR.  
649

650 Larry Wright: We are actually getting control?  
651

652 Craig Benedict: Yes. That's correct. There were parts of our old zoning and subdivision code that were definitions from the 80s  
653 and 70s. We have cleared up a lot of that with our new definition section. We spoke about this earlier, there is some archaic  
654 language. We are going to have to approach more in the future but you can see how this one little language nuance really flared  
655 up quite a few letters so we hope that clarifies it. We will be issuing a response letter as the Commissioners suggested to send  
656 back to the local governments as well as any changes we make.  
657

658 Pete Hallenbeck: What you just described was in response to concerns that I believe Mike Hughes had when he was talking  
659 about wastewater systems and so forth?  
660

661 Craig Benedict: Yes.  
662

663 Pete Hallenbeck: Thank you.  
664

665 Judith Wegner: I am sorry to be trying to focus on time but I wanted to go ahead and ask if we can move the staff  
666 recommendation about public interest district? It is a separate sheet that was handed out saying that you remove the public  
667 interest district CZ designation and return public interest district to General Use District with modifications any other technical  
668 modifications as needed to be completed by staff.  
669

670 Craig Benedict: There was no major reason to have it in one place or the other. I think if we go back to General Use District, if  
671 the government ever wanted to designate that to a certain property, we could. It might give us a little more ability to zone  
672 something. The government cannot put a Conditional District on somebody's property. That has to be applicant based. PID  
673 was in General Use Districts before but we think this amendment is acceptable and this was mentioned at the public hearing.  
674 We think its minor enough and there are no ensuing complications with this change.  
675

676 **MOTION:** Judith Wegner moved that the Planning Board approve staff's recommendation regarding Public Interest District (PID).  
677 Seconded by Samantha Cabe  
678 **VOTE:** Unanimous  
679

680 Judith Wegner: If you would give me the honor to respond to Commissioner Gordon's fax and see if people agree to this. On  
681 page 2, I am just going to comment and see if we all understand what we have done tonight and how that intersects.  
682

683 Brian Crawford: Does everyone have a copy?  
684

685 Judith Wegner: As to item 1, Location of Conditional Districts, what we did was to limit the Master Planned District, which is the  
686 principal one of concern, to Economic Development Districts and the Rural Community Nodes. Moreover, we  
687 just said that Public Interest Districts which is another type of Conditional District, is going to be moved to no  
688 longer being a Conditional District. It's going to be a General District. She wanted the Efland Cheeks Overlay  
689 District to be designated. That isn't currently on the map that way. I don't think that is appropriate to be done  
690 now. She asked particularly that we should answer every one of her particular comments and questions so I  
691 am doing my best.  
692

693 Number 2, Linking Conditional Districts to the Comprehensive Plan, we spent a lot of time discussing that. The  
694 staff in fact presented us with draft language, good job staff, and I am sure you will be commended by  
695 Commissioner Gordon. The particulars on that were after considered discussion we believe based on what  
696 Samantha said that it would be an inadvisable to start putting references in a few places and not every place so  
697 there would be some inference that it applied in certain places and not others. Moreover, we believe that  
698 careful reading elsewhere in the existing document repeatedly references the Comprehensive Plan.  
699

700 Number 3, Special Use Permit in the Conditional Zoning Districts (CZDs), she seems to be talking about, I am  
701 not sure she's using the right terminology here because we've been discussing Conditional Use Districts and  
702 Conditional Districts, so when she says Conditional Zoning Districts I am not sure what she is after. However,  
703 as to Conditional Use Districts, Special Use Permits are part of that and we in effect have limited the  
704 Conditional Districts to getting rid of the Public Interest District and targeting the Master Planned types of these

705 only to Economic Development Districts and Rural Community Nodes. We have talked about that so that is the  
706 response.  
707  
708 Number 4, Supermajority, as to supermajority requirements, my opinion for what it's worth is that would not  
709 comport with the statute because there is no provision for supermajority so Commissioner Gordon can get the  
710 legislature to change that but it's not up to us.  
711  
712 Number 5, we just talked about ground absorption systems and wastewater treatment facilities and I think that's  
713 been well answered by the staff.  
714  
715 Number 6, Issues related to the Rural Buffer and Joint Planning Agreement. Well once upon a time I was on  
716 the Carrboro Board of Alderman and actually put that together so I have some vague recollection but it may be  
717 that in my increasing age I've forgotten. Nonetheless,  
718 a. no Conditional Districts in the rural buffer as previously noted, the rural buffer doesn't have economic  
719 development districts or community nodes, there is no Public Interest Conditional District any more the  
720 only possibility would be mobile homes which in my mind would be consistent with the rural buffer if that  
721 happened to exist.  
722 b. No Conditional Districts in watershed overlay districts, I think we've just talked about that and it's in the  
723 record that where any of these would exist, it's not in watershed districts.  
724 c. Conditional Districts, she wants Conditional Districts move to Phase 2. Well, she can convince her  
725 colleagues, that's up to her that's not up to us.  
726  
727 Number 7,  
728 a. She wants to have references to about quarterly hearing dates. In my opinion that doesn't belong in this  
729 kind of ordinance so she can do it in Commissioners' meeting if she would like that.  
730 b. She asked that public interest districts should remain in general use zoned districts that's what we've  
731 done.  
732  
733 Number 8, She wants something else for the references to the Comprehensive Plan and Land Use Category  
734 but we discussed that.  
735  
736 Judith Wegner: That is my summary that I would like to have if you all agree to it that it's fully laid out in the minutes with our  
737 best wishes.  
738  
739 **MOTION:** Larry Wright moved that the Planning Board agrees with Judith's assessment. Seconded by Alan Campbell.  
740 **VOTE:** Unanimous  
741  
742 Judith Wegner: I just want to be sure, again this is so we've done this all fully as best we can any other things raised in the  
743 summary, the town resolution, the citizen written submittals, I think a number of these we have addressed since the staff had in  
744 fact pulled out the major themes here. I think some of them don't necessarily reflect a full understanding of what is in the actual  
745 document but as best I can see we really have tried systematically to answer those and I think we should thank the staff for  
746 having done such a careful job by pulling these....  
747  
748 Brian Crawford: I also sent the staff, earlier today, something from Orange County Voice which I believe, I've looked at this list  
749 and I think it's been incorporated in some of the work that they did making these suggestions.  
750  
751 Judith Wegner: I think we should extend our thanks to them because I think they really have worked very hard to try to raise  
752 important issues here.  
753  
754 Larry Wright: They made a very good presentation.  
755  
756 Judith Wegner: I just wanted to be sure it's in the record that we went through all the paper and all the emails.  
757  
758 Craig Benedict: I believe you voted on amendments and now those amendments can be wrapped into the global UDO and then  
759 there can be a global vote on the UDO as amended.  
760  
761 Perdita Holtz: There's still one attachment in your regular packet. Attachment 2, its page 23 of your Planning Board packet.  
762 Staff found two additional necessary revisions after your February meeting and they are in purple text. One was requested by

763 Commissioner Gordon at the November Public Hearing, B.2, she wanted the phrase "including uses" inserted and the other one  
764 is in number 2, we inadvertently forgot to strike something and we don't want it to end up in the UDO.  
765

766 Brian Crawford: I'm glad you caught that, that's a big one.  
767

768 **MOTION:** Judith Wegner moved that the Planning Board approve staff's recommendation regarding Section 3.7.3 and Section  
769 4.4.4 (B) of the draft UDO. Seconded by Samantha Cabe  
770 **VOTE:** Unanimous  
771

772 **MOTION:** Judith Wegner moved that the Planning Board recommend the UDO Phase 1 with the amendments recommended  
773 tonight to the Commissioners for action.  
774

775 May Becker: For consideration one way or another?  
776

777 Judith Wegner: I was going to hold that part off and do it separately.  
778

779 Brian Crawford: So one that we move it?  
780

781 Judith Wegner: One that we move it to the Commissioners with the adopted amendments for their action.  
782

783 May Becker: Ok, I just wanted to be clear on what we were voting on.  
784

785 **MOTION:** Judith Wegner moved that on behalf of the Planning Board to the Board of County Commissioners that the Planning  
786 Board recommends affirmatively that they act upon the UDO Phase 1 with the amendments agreed upon tonight. Seconded by  
787 Alan Campbell.  
788 **VOTE:** Unanimous  
789

790 **MOTION:** Judith Wegner moved that the Planning Board urges the Board of County Commissioners to vote the UDO up or down  
791 because further delay is not constructive in the Planning Board's viewpoint and that the Planning Board urges that the Board of  
792 County Commissioners bring closure to this one way or another so that the Planning Board can move on to Phase 2  
793 auspiciously.  
794

795 May Becker: I have a question, when you say up or down, would that be presumably if there is some concern that they have  
796 then they could say up or down with the following being addressed?  
797

798 Judith Wegner: Ok, let me try it one more time.  
799

800 **MOTION:** Judith Wegner moved that on behalf of the Planning Board they urge the Commissioners that the Planning Board has  
801 completed their best work on this project to their best ability. The Planning Board believes that it would be constructive for the  
802 Board of County Commissioners to either vote in favor or vote against or that they take whatever other action they want to  
803 amend whatever the Planning Board has sent forward but that they not send it back to the Planning Board for more refinement  
804 because the Planning Board has done its level best to give them their best judgment and that it would be much more in the  
805 public interest for them to go ahead and make a decision including further revisions if they choose to do that but that in the  
806 opinion of the Planning Board it is not constructive to keep sending it back to the Planning Board without some sense of what the  
807 Commissioners collectively want to have happen.  
808

809 Brian Crawford: It's longer than I wanted but the point is well taken that we want to send it to them and let them know that we  
810 are not willing to revisit Phase 1. Again, we've made our recommendation, we've done our best thinking on this and we feel  
811 Phase 1 is finished. We are going to send it to you, we urge you to vote it up or down. Not get to a meeting and suggest further  
812 revisions, if you suggest further revisions, we're not going to look at them. If I get removed as Chair, that's fine, the whole point is  
813 we can't keep going through this. We just have to make it unequivocal that they need to vote up or down on whether they want  
814 Phase 1.  
815

816 Judith Wegner: Or modify if they choose to do that but not to send it back here again because we have done our level best.  
817

818 Brian Crawford: That's the point I want to get across, I don't want them to think that we are willing to look at more revisions or  
819 edits on this.  
820

821 Samantha Cabe: I have two questions, first of all, do we want non planners making revisions to this and number two can we  
822 really say that we are not going to look at it if we serve at their pleasure if they tell us we have to look at it?  
823

824 Brian Crawford: Well at some point we have to make a statement. Of course we can be removed, we serve at their pleasure.  
825

826 Judith Wegner: Or we can resign.  
827

828 Samantha Cabe: I guess my recommendation would be, I think it would be more straightforward if we just send it... our  
829 recommendation is that we are sending this back as the completed Phase 1 and we recommend that the Commissioners vote to  
830 approve it or to not approve it period. That would be my version of that.  
831

832 Judith Wegner: Let's take her version.  
833

834 Rachel Hawkins: Since we have had so much discussion about the Comprehensive Plan and from what I could gather in my  
835 layman's way, everything that the Planning Board and the planning department has done has been in consensus with the  
836 Comprehensive Plan so if they are seeing things that they don't think work or whatever they just need to refer back to the  
837 Comprehensive Plan for that question. As I said before, I don't think anything will get by the planning department or put in an  
838 area where it didn't need to be put.  
839

840 **MOTION:** Samantha Cabe moved that the Planning Board make a recommendation to the Board of County Commissioners to  
841 accept the UDO as amended tonight by the Planning Board as the final output of Phase 1 and vote either to approve this  
842 document or not approve this document.  
843

844 May Becker: I feel that the part about... if some Commissioner has a concern or a modification, I feel if that is in response to a  
845 public comment or something that has come about as a result of such discussion that it should be communicated back to us. In  
846 other words, I feel that if it's a yes or no and there is some modification that should be communicated then that should be  
847 included in whatever.....  
848

849 Samantha Cabe: Can I make one clarification? I am not changing the language in my motion but that's the whole point of Phase  
850 2. There are still going to be modifications to this document that will be ongoing and yes they can send it to us but send it to us  
851 after you approve it or you don't approve it. Because we can vote to make those amendments in Phase 2.  
852

853 Alan Campbell: I second Samantha's motion.  
854

855 Brian Crawford: Samantha's motion has been made and seconded the questions is I think May wants a friendly amendment.  
856

857 Samantha Cabe: I say no.  
858

859 Brian Crawford: Is there a second to May's proposal?  
860

861 Brian Crawford: Seeing that there is no second the existing motion stands.  
862

863 **MOTION:** Samantha Cabe moved that the Planning Board make a recommendation to the Board of County Commissioners to  
864 accept the UDO as amended tonight by the Planning Board as the final output of Phase 1 and vote either to approve this  
865 document or not approve this document. Seconded by Alan Campbell  
866 **VOTE:** 8-1 (Becker opposed)  
867

868

869 Judith Wegner: Thank you to the staff and I have to say that I think of Mary Bobbitt-Cooke tonight and know she did a lot to help  
870 us through this as well.  
871

872 Brian Crawford: Thank you everyone for all the hard work in getting through this process.  
873

874

875 **AGENDA ITEM 8: UDO IMPLEMENTATION BRIDGE STATUS REPORT:** To receive a status report from Clarion Associates on  
876 its progress towards completing the Implementation Bridge document and provide any preliminary  
877 Board input.  
878 *Presenter: Roger Waldon, Clarion Associates*  
879

880 Roger Waldon: Good evening, I am Roger Waldon. I want to offer my observation about how proud I am of my Planning Board  
 881 in Orange County. You are very thoughtful about how you have gone through this and thorough. As I mentioned at the hearing  
 882 on Monday night, I travel around the country a lot these days and I hold Chapel Hill, Carrboro, Hillsborough, and Orange County  
 883 up as models for how government is set. It's participatory and thoughtful and purposeful. If you wouldn't mind turning to the  
 884 table of contents of the handout. I would offer a couple of comments about preview of coming attractions, assuming that Phase  
 885 1 is adopted and enacted and you have a new Unified Development Ordinance, we have been talking all along with staff and  
 886 with you and the Commissioners and the citizens about Phase 2 and what is to happen next. It has been my observation and  
 887 opinion throughout this Phase 1 that Phase 1 is almost exclusively something that is procedural, mechanical, putting things  
 888 together and there are a couple of substantive things in here. The public hearings have been an opportunity for citizens to come  
 889 out and offer their substantive ideas, we should really change what our approach to this topic or we should change our standards  
 890 here, or we should be doing things differently in the county from what we are doing now. We have said all along that we don't  
 891 want to lose those ideas, we want to keep them for consideration so your staff has been doing a great job and you have been  
 892 getting all of the copies of citizen comments and board comments about additional changes that should be made. What we are  
 893 going to be doing once the UDO is adopted is forwarding along with the recommendations for adoption, this document which is  
 894 going to say, here are all the ideas that came and they are not part of Phase 1, they shouldn't be lost but here's what we should  
 895 be doing with them. This document will provide some organization for the full array of ideas that have been brought forward,  
 896 number 1 it will restate the Comprehensive Plan themes and goals and make the point again that the UDO is there to implement  
 897 the Comprehensive Plan and the linkages are tight and intact. It will talk about the relationship there and how the new UDO  
 898 implements the Plan. Then my suggestion is that we put all the ideas and put them into categories, so dealing with procedures  
 899 would be one bucket of these issues and ideas that come up another one dealing with use and design, another one dealing with  
 900 environmental, preservation, another category dealing with economic development. For each of those sections what we would  
 901 do is first restate what is in the Comprehensive Plan this is what the Comprehensive Plans says and here are all the ideas  
 902 collected for that category so that they are here they won't be lost and can be considered subsequently by the County. Then  
 903 comes a sorting out of those, I think there are some that have particular urgency, they are compelling in nature. My observation  
 904 is the full body of ideas that have been brought to the table, you can't do it all at once, it's too much. You and the  
 905 Commissioners will have to set some priorities. I wanted to give you a preview of that coming.

906  
 907 Larry Wright: I would like to make a suggestion and I am making this suggestion to the Board of County Commissioners as well  
 908 as staff, it seems like when there is a big document or a big project that the Planning Board needs to consider, Buckhorn is  
 909 among them, this is among them, and then we had the Comprehensive Plan while we had Buckhorn. On this one we had to deal  
 910 with this over the holidays, it all came to a crunch during the holidays. The public was all caught up with the holidays,  
 911 Thanksgiving and Christmas and people didn't come out to hearings, they didn't hear about it, public interest groups weren't  
 912 really able to form coalitions to come and speak like they did Monday night. I really think it is a disservice to us and to the whole  
 913 process to bunch it through and crunch it through a holiday season and then expect results so that the Commissioners can deal  
 914 with their budget. I think that if we are dealing with issues or sections that are very important like section 3, I think that there  
 915 should be time to really deal with it. There are people on this Planning Board that are not really happy with what is going  
 916 forward, really. We all want it to go to Phase 2 where we can do this. Ok, let us be able to do it right.

917  
 918 Brian Crawford: Fair enough.

919  
 920 Judith Wegner: With that in mind, Roger, I had foolishly thought you were going to give us the list of the issues and the Comp  
 921 Plan provisions, how far away is it before we actually see that or is it possible to get one piece at a time a month at a time or  
 922 something like that because I think, Larry as you say, we've been hustling because the Commissioners have the budget to work  
 923 on. For us to really satisfy the sense that there are important things that different ones of us have said like some of the  
 924 environment things or probably everyone around the table would have their top three things they think are important. How long  
 925 before we get the real thing?

926  
 927 Tom Altieri: The list of the issues were in the public hearing packet, that ongoing list of items. The Planning Board received it in  
 928 its packet.

929  
 930 Judith Wegner: What I am confused about is that this is the template, suggesting in some way that what we have seen so far  
 931 isn't the real thing that it is going to be revised into a formal report? I may have misunderstood.

932  
 933 Roger Waldon: I think that what this will do is help to organize that body of stuff that the county will get.

934  
 935 Judith Wegner: Again, how soon?

936  
 937 Roger Waldon: The plan is to bring it forward, the implementation bridge to the Commissioners at the same time that the UDO is  
 938 adopted.

939  
940 Tom Altieri: That would be on April 5th as a separate agenda item.  
941  
942 Judith Wegner: So that means no review from us, anything about what is in that? It goes straight to the Commissioners?  
943  
944 Tom Altieri: That's correct. That's my understanding of how the process was envisioned.  
945  
946 Judith Wegner: Ok, I guess, I mean that seems kind of silly frankly because you think that they would want our review. That's  
947 fine, I guess I had not understood that.  
948  
949 Tom Altieri: What it primarily comes from is the scope of service that was adopted by the County Commissioners and that this is  
950 to be a consultant product. A compilation, as Roger said, of all these ideas that have been pulled together over the course of this  
951 process and also some of the Comprehensive Plan planning process and that the Commissioners are interested specifically in  
952 hearing the consultant's recommendations on what we do next. Then the Planning Board and the County Commissioners would  
953 have an opportunity to react to that. Certainly, Roger is here tonight to hear your ideas and your thoughts that you may have on  
954 what you might like to see in that document or what priorities you might have. That I think would be valuable to Roger.  
955  
956 Judith Wegner: Well to be frank, that doesn't seem like a real likely thing given that we're pretty tired and just worked through all  
957 the rest of this stuff and April 5th is the Commissioner meeting it is not one that we are advised to attend. It's not a hearing, it's  
958 not a quarterly meeting, it's a standard Commissioner's meeting. So I move that we ask the Commissioners if they think that  
959 they still want a Planning Board that they share a copy of Roger's report when it is delivered so that we might be informed about  
960 it. Our April meeting would be April 6th so it would seem to me as a logical next step that we might actually have, possibly read it,  
961 to even talk about it April 6th but I guess that's only if we have received it. I would just say for the record that it would be kindly if  
962 they want us to do anything about it before we get into other things that may be coming towards us in terms of text amendments.  
963  
964 Brian Crawford: I tell you what, when we have our agenda planning meeting with staff for the next meeting, why don't you join  
965 us.  
966  
967 Judith Wegner: Don't do that.  
968  
969 Larry Wright: Can you make a motion?  
970  
971 Judith Wegner: What I am saying is it seems to me we've been told there's a big rush to this down the stretch so we have done  
972 our level best to try to give them what we can for Phase 1 and if there is going to be any kind of sense of this group, in terms of  
973 trying to set some priorities so we could actually recommend to the them anything worthwhile about what happens first, it would  
974 be good to start working that because I would suspect if it is as full as we've seen before it will take more than one meeting to  
975 create some kinds of understandings about it. If we were to start that at the April meeting, assuming we were given a copy of  
976 this in time to read it before the April meeting, it is probably going to take April and May and then by June people come and go.  
977 We want to keep our momentum going but it just seems as though there is a little push and pull here. I understand that they  
978 commissioned the work, they get the report, but I think, I move that we request the Commissioners to advise us what role they  
979 think they want us to play in delineating and sorting and evaluating possible priorities for Phase 2 work on the UDO.  
980  
981 Brian Crawford: Which means they won't be able to answer that question until April 5th.  
982  
983 Judith Wegner: Right.  
984  
985 **MOTION:** Judith Wegner moved that the Planning Board make a request the Commissioners to advise us what role they think they  
986 want us to play in delineating and sorting and evaluating possible priorities for Phase 2 work on the UDO. Seconded by Larry  
987 Wright.  
988 **VOTE:** Unanimous  
989  
990 Craig Benedict: The intent on April 5th is to have that separate agenda item as Tom said and two things will come forward, one is  
991 there will be some content in that report. There is no prioritization yet and the two part thing that needs to come forward from the  
992 next steps is the prioritization process and the process. I think we've learned a lot from this 16-17 month process to date and we  
993 need to find out how to determine the priorities and how to focus on them and how to achieve them in a reasonable amount of  
994 time. That will be part of it and we will be enlisting the ideas of the Planning Board as well as our Commission to have a focused  
995 process where we learn from this process to have comments from the public and local governments early and often and not late.  
996 I think there is some work ahead and we are going to be jumpstarting that on April 5th after that vote occurs on the UDO.  
997

998 Brian Crawford: There are members of the public here that wanted to speak and not just observe the meeting. I'd like to get  
999 them a few minutes each just to make a statement to us. I know that we've already voted. I don't know if it would have impacted  
1000 that but I still would like to give them an opportunity to speak because they did sign in. I didn't check the sheet so my apologies  
1001 to the public for that.

1002  
1003 Bonnie Hauser: First I want to thank you because what you did with Attachment 2 solved everything for us. So I want to thank  
1004 you for that and I want to thank you in the context of there is a bigger issue that you are all committed to but I am not sure that  
1005 we are in agreement that it works the same way and that's how the UDO links to the Comprehensive Plan. I will start by saying  
1006 the UDO is legally binding and the Comprehensive Plan, as we all know, is not. If you look at MPD-CZ closely, you would see  
1007 that it allowed a whole list of permitted uses, put in light, medium, and heavy industrial, that had they been approved they could  
1008 allow a use in the County that would be inconsistent with the Comprehensive Plan. Now, you all say and you all agree that the  
1009 current Board as it sits would be unlikely to approve it but only takes four votes to permit a use that would be inconsistent with  
1010 the Comprehensive Plan so as we move into Phase 2, we would ask for maybe some more precise definitions of what is allowed  
1011 in these the Conditional Districts so that they don't allow things that would be so blatantly inconsistent with the Comprehensive  
1012 Plan. That said, we really appreciate it, I will write a letter to the Board tomorrow saying that we support the recommendations of  
1013 the Planning Board and want to thank you.

1014  
1015 Marilee McTigue: I have no comment. Thank you for work on this, I do appreciate it.

1016  
1017 Linda Finch: I also want to commend you, I think you've had an incredibly difficult task and really the public does understand the  
1018 push and pull between all three bodies, the staff that has worked so hard, Planning Board, thankless task. I do think it is very  
1019 unusual that a major planning ordinance like this is passed with a cross over with very little definition to the public and then we  
1020 are expected to take on faith that in Phase 2 our concerns are going to be picked up. I think, unfortunately, getting that  
1021 information late I realize that the packet didn't even include my two letters from two days ago that I issued to the Commissioners  
1022 but I would hope that very soon we could see a comprehensive list of the issues that you have agreed will go forward into Phase  
1023 2 so that we can start thinking about what work is going to be done in the future. Again, thank you so much for letting us address  
1024 you this evening.

1025  
1026 Dolly Hunter: I just really wish you that in Phase 2 you can address the size of the landscape material. In the existing Ordinance  
1027 it is wonderful, you talk to any landscaper and what is purposed, the larger size, they don't survive as well, they cost two to three  
1028 times more, my main question is will you address that in Phase 2?

1029  
1030 Craig Benedict: I am not the one to make guarantees, we will have that on our list. That did become part of the public record.

1031  
1032 Brian Crawford: We'll make sure it's on the list.

1033  
1034 Larry Wright: May I say something to the public in general? It has been said here many times, we are volunteers and what I just  
1035 heard tonight comes from other people that have studied or are studying this as well as we are and I have been on some pretty  
1036 serious projects on this Board and it sure helps to hear comments like this and to bring this to us with documentation in Section  
1037 5.3.2 or whatever it is, so we can take a look. More people studying this helps us immensely.

1038  
1039 Pete Hallenbeck: I'd like to make some general comments and observations that I think would be good to have in the record. It  
1040 will be brief. I think tonight we looked at changes in the UDO to accommodate the interpretations that people had and we looked  
1041 at explicitly stating things that could be concluded by looking at both the Ordinances and the Comprehensive Plan. I am glad  
1042 that we stayed with having the global directives in there just once and not trying to unfactor it if you will from a mathematical point  
1043 of view. The second thing is I am from the Cheeks Township and I've talked with a lot of people there and one thing that I was  
1044 wrestling with particularly with the public comment was the concept and definition of Rural Community with all the people that  
1045 stood up and all the different views we got and in my mind it was a little breakthrough but it suddenly hit me that there is no Rural  
1046 Community per say. It's not a homogenous entity, we have a number of rural communities throughout the County and it makes it  
1047 difficult sometimes to take public comments and interpret it. You have to somehow tie it back to the communities and what their  
1048 concerns are. That is just something that I was battling with. The next thing is that the chart on page 15 of this presentation that  
1049 has the Conditional Districts definitions, on Monday's presentation, I love the way Craig presented it and I think that chart is  
1050 under appreciated. Perhaps by us and perhaps sometimes by the public, I think it is a great explanation of it and the concept of  
1051 more general, more specific, less and more, speculation really put the differences in all the types of Conditional Zoning into very  
1052 good general focus. A lot of the time when I was listening to people having concerns about specifics with Conditional Zoning,  
1053 that chart let me put that in perspective. I think a lot of what we are seeing here with the public discussion and Commissioner  
1054 comments is a battle of flexibility versus rigidity in zoning ordinances and people have to weigh the advantages and risks of  
1055 that. The Conditional Use is very specific, it's very flexible but it runs the risk that somebody could go off in one area and plop  
1056 something down and when I hear all the concerns about the floating zones that land somewhere and do something bad, it seems

1057 to constantly be a battle of flexibility for people that want more business in the County and more opportunities versus people who  
1058 say no we have to keep it rigid because something might happen that we don't want so flexibility and rigid are being played  
1059 against advantages and risks. My last comment , this one took me a long time to figure out, when you design a system, any kind  
1060 of system, when you are done there is this validation stage where you actually go back and say by any chance does this  
1061 accomplish what we want? A lot of the time I think people, and I frequently see this in Commissioner Gordon, I have seen it with  
1062 May's concerns, are wrestling with the concept that when add all the ordinances, does it actually achieve the goal? May, in  
1063 particular, I think you commented once about a good developer would be guided by these plans and you get the right results but  
1064 an unscrupulous developer could use these plans and do the wrong results which plays back into the advantages and risks.  
1065 When you are validating a system, it is difficult because you are playing at a low level. If it was a machine you would be  
1066 adjusting strings and pulleys and seeing if it does what you want. It is also difficult because when you validate a system you  
1067 have to know what the goal is and so when I look at this whole process, I try to think what is the goal. I keep coming back to the  
1068 goal is a mix of the Comprehensive Plan and the Board of County Commissioners as the enforcement agency for that. For me, a  
1069 number of the points that have been brought out as I weighed them, it has helped me to resolve that to think of this model of  
1070 validation and a very explicit, what's the goal, what's the part we are playing, and then also look at advantage and risk.  
1071 Advantage and risk also plays into this, we've got to get it 80% right goal. I know it's very vague and abstract but I wanted to get  
1072 that on the record because it has helped me a lot in weighing public input and Commissioner input.

1073  
1074 Judith Wegner: It's very helpful.

1075  
1076 Brian Crawford: Thank you for that.

1077  
1078 Samantha Cabe: I just have one comment, I wanted to let everyone know. I've already communicated this to staff, my term is  
1079 up March 31<sup>st</sup> and I am not going to seek reappointment because I am having another little baby and I would have a long period  
1080 of time where I won't be able to attend just like I did at the beginning of my tenure with my first child. I would be interested in  
1081 reappointment down the road but I wanted to let all of you know and that I am willing to continue to serve past the end of the  
1082 month until there is someone new appointed if that's what usually happens.

1083  
1084 Perdita Holtz: That's the typical process, yes.

1085  
1086 Samantha Cabe: Except the baby is due in June, so....

1087  
1088 Brian Crawford: I have to say this to the Board, I have been on many boards in my time here in Orange County and I have  
1089 served in a lot of different capacities but it does my heart so good that there are so many thoughtful, hardworking members of  
1090 this Board. I am constantly impressed with the amount of analysis that you do and the thinking that you do on these issues. I  
1091 will advocate for this Board in any way I can to make sure that the Board of County Commissioners appreciates the work that  
1092 you do because you do work hard and I listen to you and listen to your thoughts. It is just incredible the analysis and the  
1093 participation you have and I want to thank you for that. It does me honor that I can serve with you in doing this important work for  
1094 the County. Thank you very much for the work that you do. We have a couple more items on the agenda. We have the  
1095 advisory reports but unless someone has something important I would entertain a motion for adjournment.

1096  
1097  
1098 **AGENDA ITEM 9: COMMITTEE/ADVISORY BOARD REPORTS**

- 1099 a) Board of Adjustment  
1100 b) Orange Unified Transportation  
1101 c) Efland-Mebane Small Area Plan Implementation Focus Group

1102 No Reports

1103  
1104  
1105 **AGENDA ITEM 9: ADJOURNMENT**

1106  
1107 **MOTION:** Larry Wright made a motion to adjourn. Seconded by Brian Crawford

1108 **VOTE:** Unanimous

1109

---

Brian Crawford, Chair