



**Orange County
Board of Commissioners**

Agenda

Virtual Business Meeting

December 14, 2021

7:00 p.m.

Note: Background Material
on all abstracts
available in the
Clerk’s Office

Due to current public health concerns, the Board of Commissioners is conducting a Virtual Business meeting on December 14, 2021. Members of the Board of Commissioners will be participating in the meeting remotely. As in prior meetings, members of the public will be able to view and listen to the meeting via live streaming video at orangecountync.gov/967/Meeting-Videos and on Orange County Gov-TV on channels 1301 or 97.6 (Spectrum Cable).

In this new virtual process, there are two methods for public comment.

- Written submittals by email
- Speaking during the virtual meeting

Detailed public comment instructions for each method are provided at the bottom of this agenda. (Pre-registration is required.)

Compliance with the “Americans with Disabilities Act” - Interpreter services and/or special sound equipment are available on request. Call the County Clerk’s Office at (919) 245-2130. If you are disabled and need assistance with reasonable accommodations, contact the ADA Coordinator in the County Manager’s Office at (919) 245-2300 or TDD# 919-644-3045.

1. Additions or Changes to the Agenda

PUBLIC CHARGE

The Board of Commissioners pledges its respect to all present. The Board asks those attending this meeting to conduct themselves in a respectful, courteous manner toward each other, county staff and the commissioners. At any time should a member of the Board or the public fail to observe this charge, the Chair will take steps to restore order and decorum. Should it become impossible to restore order and continue the meeting, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. The BOCC asks that all electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate. Please be kind to everyone.

2. Public Comments (Limited to One Hour)

(We would appreciate you signing the pad ahead of time so that you are not overlooked.)

- a. Matters not on the Printed Agenda (Limited to One Hour – THREE MINUTE LIMIT PER SPEAKER – Written comments may be submitted to the Clerk to the Board.)

Petitions/Resolutions/Proclamations and other similar requests submitted by the public will not be acted upon by the Board of Commissioners at the time presented. All such requests will be referred for Chair/Vice Chair/Manager review and for recommendations to the full Board at a later date regarding a) consideration of the request at a future Board meeting; or b) receipt of the request as information only. Submittal of information to the Board or receipt of information by the Board does not constitute approval, endorsement, or consent.



b. Matters on the Printed Agenda

(These matters will be considered when the Board addresses that item on the agenda below.)

3. Announcements, Petitions and Comments by Board Members (Three Minute Limit Per Commissioner)

4. Proclamations/ Resolutions/ Special Presentations

- a. Recognition of Cedar Ridge High School Volleyball Team for Winning the 2021 State Championship

5. Public Hearings

- a. Proposed Unified Development Ordinance Text Amendment – Modification of Enforcement Provisions Addressing Changes in State Law
b. Proposed Amendments to the Comprehensive Plan Future Land Use Map and Zoning Atlas - Eno Economic Development District (EDD)

6. Regular Agenda

- a. Fiscal Year 2021-22 American Rescue Plan Act Allocations Round 2
b. Review and Approval of Updated Draft BOCC Rules of Procedure
c. BOCC Boards and Commissions Assignments

7. Reports

8. Consent Agenda

- Removal of Any Items from Consent Agenda
- Approval of Remaining Consent Agenda
- Discussion and Approval of the Items Removed from the Consent Agenda

- a. Minutes
b. Second Reading of Amendments of Portions of the Code of Ordinances to Comply with North Carolina Session Law 2021-138
c. Schools Adequate Public Facilities Ordinance (SAPFO) – Approval of Membership and Capacity Numbers
d. Lake Orange Erosion Control Barrier Replacement Project - Construction Contract Award
e. Approval of Trail Easement – Edward Johnson Property
f. Contract for the Development of a Solid Waste Master Plan
g. Fiscal Year 2021-22 Budget Amendment #5
h. Fiscal Year 2021-22 Budget Amendment #5-A
i. Fiscal Year 2021-22 Budget Amendment #5-B – ARPA
j. Authorization to Approve an Interim Senior Lunch Caterer Contract

9. County Manager's Report

10. County Attorney's Report

11. *Appointments



12. Information Items

- December 6, 2021 BOCC Meeting Follow-up Actions List
- Memorandum - Meeting with OWASA Management and Staff on MST

13. Closed Session

14. Adjournment

Note: Access the agenda through the County's web site, www.orangecountync.gov

***Subject to Being Moved to Earlier in the Meeting if Necessary**

Orange County Board of Commissioners' meetings and work sessions are available via live streaming video at orangecountync.gov/967/Meeting-Videos and Orange County Gov-TV on channels 1301 or 97.6 (Spectrum Cable).

Public Comment Instructions

Public Comment – Written

(for Items not on the Agenda, Agenda Items and Public Hearings)

Members of the public may provide written public comment by submitting it to the ocbooc@orangecountync.gov email address by 3:00 PM on the afternoon of the meeting.

When submitting the comment, include the following:

- The date of the meeting
- The agenda item (example: 5-a) you wish to comment on
- Your name, address, email and phone number

The Orange County Board of Commissioners, County Manager, County Attorney and Clerk to the Board, will be copied on all of the emails that are submitted.

Public Comment – Verbal

(for Items not on the Agenda, Agenda Items and Public Hearings)

Members of the public will be asked to contact the Clerk to the Board using the email address ocpubliccomment@orangecountync.gov no later than 3:00 PM on the day of the meeting and indicate they wish to speak during the meeting.

When submitting the request to speak, include the following:

- The date of the meeting
- The agenda item (example: 5-a) you wish to speak on
- Your name, address, email and phone number
- The phone number must be the number you plan to call in from if participating by phone



Prior to the meeting, speakers will be emailed a participant link to be able to make comments during the live meeting. Speakers may use a computer (with camera and/or microphone) or phone to make comments. Speakers using the phone for comments must use the provided PIN/Password number.

The public speaker's audio and video will be muted until the BOCC gets to the respective agenda item(s). Individuals who have pre-registered will then be brought into the public portion of the meeting one at a time.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No.** 4-a

SUBJECT: Recognition of Cedar Ridge High School Volleyball Team for Winning the 2021 State Championship

DEPARTMENT: Community Relations

ATTACHMENT(S):
Proclamation

INFORMATION CONTACT:
Todd McGee, Community Relations
Director, 919-245-2302

PURPOSE: To consider a Proclamation recognizing the Cedar Ridge High School Volleyball Team on winning the 2021 State Championship.

BACKGROUND: The Cedar Ridge High School Volleyball Team won the State 3A championship with its victory in the state finals on November 6, 2021.

FINANCIAL IMPACT: There is no financial impact associated with this item.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends that the Board approve and authorize the Chair to sign the attached proclamation recognizing the Cedar Ridge High School Volleyball Team for winning the 2021 State 3A Championship and honoring the players and coaches for representing the community with the highest ideals of sportsmanship and integrity.

ORANGE COUNTY BOARD OF COMMISSIONERS

**PROCLAMATION OF RECOGNITION ON
CEDAR RIDGE HIGH SCHOOL WOMEN'S VOLLEYBALL TEAM
WINNING THE 2021 STATE CHAMPIONSHIP**

WHEREAS, on November 6, 2021, Cedar Ridge High School Women's Volleyball Team captured the North Carolina High School Athletic Association's (NCHSAA) 3A State Championship; and

WHEREAS, under the guidance of Coach Fiona Cunningham, the Cedar Ridge High School Women's Volleyball Team won its first NCHSAA title; and

WHEREAS, the Red Wolves completed the season with a 31-2 record; and

WHEREAS, the Red Wolves brought honor upon themselves, Cedar Ridge High School, the Orange County Schools District and Orange County;

NOW, THEREFORE, be it proclaimed that the Orange County Board of Commissioners expresses its sincere appreciation and respect to the Cedar Ridge High School Women's Volleyball Team and Coach Fiona Cunningham for the team's outstanding achievement, and their inspiration to youth across North Carolina through their dedication, teamwork, and athletic prowess.

This the 14th day of December 2021.

Renee Price, Chair
Orange County Board of Commissioners

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: December 14, 2021

**Action Agenda
Item No. 5-a**

SUBJECT: Proposed Unified Development Ordinance Text Amendment – Modification of Enforcement Provisions Addressing Changes in State Law

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

1. Excerpt of Session Law 2021-138
2. November 3, 2021 Approved Ordinance Review Committee (ORC) Notes
3. Excerpt of Draft December 1, 2021 Planning Board Minutes and Signed Statement of Consistency
4. Statement of Consistency
5. Ordinance Amending UDO

INFORMATION CONTACT:

Craig Benedict, Director, 919-245-2575
Michael D. Harvey, Planner III, 919-245-2578

PURPOSE: To hold a public hearing, receive the Planning Board/staff recommendation and public comment, close the public hearing, and consider action on staff initiated amendments to the Orange County Unified Development Ordinance (UDO) eliminating existing language allowing criminal penalties for violations of certain land use regulations.

The modification(s) are necessary to address recent changes in State law.

BACKGROUND: On September 2, 2021, Governor Roy Cooper signed Session Law 2021-138. Portions of the legislation, excerpt contained in [Attachment 1](#), decriminalizes certain types of ordinances including planning and development regulations. Violation(s) of certain provisions of the UDO are no longer potential criminal offences. The full version of the law is viewable here: [Session Law 2021-138](#).

The amendment was reviewed by the Board's Ordinance Review Committee (ORC) at its November 3, 2021 regular meeting. Agenda materials are available at: <https://www.orangecountync.gov/AgendaCenter/ViewFile/Agenda/11032021-1326>.

[Attachment 2](#) contains the draft ORC meeting notes.

- What the Amendment Does: Eliminates existing language in Section 9.6.5 giving staff the option of seeking criminal penalties for violations of the UDO. The proposal renumbers appropriate sections to address the elimination of Section 9.6.5 of the UDO.
- What the Amendment Does Not Do: Eliminate language allowing for potential criminal penalties for violation(s) of floodplain management (Section 9.7), soil erosion and sedimentation control (Section 9.8) and stormwater management (Section 9.9) regulations. The Session Law does not modify enabling authority under which these provisions were adopted.

As previously indicated the amendment(s) are necessary to address the County's compliance with applicable State law. The County Attorney's office has reviewed the proposal and found it to be legally sufficient.

Planning Board Recommendation: The Planning Board reviewed this item at its December 1, 2021 regular meeting (held via Zoom due to current public health concerns) and voted 9 to 1 to recommend **approval** of the amendments. The member voting no indicated they were not comfortable with the recent State law changes eliminating the County's ability to seek criminal charges for land use violations.

Excerpt draft minutes from the meeting and the signed statement of consistency are included in Attachment 3. Agenda materials for the meeting are available at: <http://orangecountync.gov/AgendaCenter/Planning-Board-26>.

Planning Director's Recommendation: The Planning Director recommends **approval** of the Statement of Consistency, indicating the amendments are reasonable and in the public interest, contained in Attachment 4 and the proposed ordinance contained in Attachment 5.

Note Regarding Written Public Comments: [Session Law 2021-35 \(House Bill 812\)](#) became effective on July 1, 2021. A portion of the amended law pertains to written comments for public hearings held in remote meetings during declared emergencies. The Session Law updated the parameters for public written comments. Written comments on the subject of the public hearing can be submitted by interested persons until 24 hours prior to the scheduled time for the beginning of the public hearing.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this item:

- **GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES**

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

FINANCIAL IMPACT: Existing County staff has and will continue to accomplish the necessary tasks associated with amending the UDO.

RECOMMENDATION(S): The Manager recommends the Board:

1. Conduct the public hearing and accept the Planning Board recommendation and staff/public comment(s);
2. Close the public hearing;
3. Deliberate as desired; and
4. Vote to approve the:
 - i. Statement of Consistency (Attachment 4), and
 - ii. Ordinance Approving the UDO Text Amendments (Attachment 5).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2021-138
SENATE BILL 300

AN ACT TO INCREASE PROTECTIONS, TRAINING, AND OVERSIGHT FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS; TO CREATE A DECERTIFICATION DATABASE; TO REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION SYSTEM AND RAP BACK SERVICE FOR LAW ENFORCEMENT; TO REQUIRE REPORTING RELATED TO GIGLIO MATERIAL; TO EXPAND TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS; TO STANDARDIZE LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS AND ONGOING REQUIREMENTS; TO REQUIRE PSYCHOLOGICAL SCREENINGS OF LAW ENFORCEMENT OFFICERS PRIOR TO CERTIFICATION OR EMPLOYMENT; TO EDUCATE LAW ENFORCEMENT OFFICERS ON MAINTAINING GOOD MENTAL HEALTH, AND TO PROVIDE INFORMATION TO LAW ENFORCEMENT OFFICERS ON MENTAL HEALTH RESOURCES AVAILABLE; TO CREATE A PHYSICAL FITNESS STUDY; TO DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND PROVIDE COMPLIANCE AS A DEFENSE TO AN ORDINANCE VIOLATION; TO MANDATE MISDEMEANOR FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY; TO REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; TO REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS; TO PROTECT LAW ENFORCEMENT OFFICERS; TO AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY; AND TO ESTABLISH THE BIPARTISAN NORTH CAROLINA LEGISLATIVE WORKING GROUP TO MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH CAROLINA'S CRIMINAL LAWS.

The General Assembly of North Carolina enacts:

PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW ENFORCEMENT DATABASE REGULATIONS

SECTION 1.(a) Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.



detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

- c. Ethics.
- d. Mental health for justice officers.
- e. Community policing.
- f. Minority sensitivity.
- g. Use of force.
- h. The duty to intervene and report.

...."

SECTION 11.(c) This section becomes effective January 1, 2022.

PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING

SECTION 12.(a) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).

(6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

SECTION 12.(b) This section is effective when it becomes law.

PART XIII. DECRIMINALIZATION OF CERTAIN ORDINANCES

SECTION 13.(a) G.S. 153A-123 reads as rewritten:

"§ 153A-123. Enforcement of ordinances.

...

(b) Unless the board of commissioners has provided otherwise, Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the county specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 18 of this Chapter, Planning and Regulation of Development or, its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing businesses, trades, etc.
- (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile homes, house trailers, etc.
- (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing programs.
- (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.

- (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating cisterns and rain barrels.
- (8) Any ordinance regulating trees.

...."

SECTION 13.(b) G.S. 160A-175 reads as rewritten:

"§ 160A-175. Enforcement of ordinances.

...

(b) ~~Unless the Council shall otherwise provide, Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.~~

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.
- (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.
- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

...."

SECTION 13.(c) G.S. 14-4 reads as rewritten:

"§ 14-4. Violation of local ordinances misdemeanor.

(a) ~~Except as provided in subsection (b), (b) or (c) of this section, if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).~~

~~(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).~~

~~(c) A person may not be found responsible or guilty of a local ordinance violation punishable pursuant to subsection (a) of this section if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following:~~

- (1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.

SECTION 22.(a) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 22.(b) Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 22.(c) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of August, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:47 p.m. this 2nd day of September, 2021

Approved December 1, 2021

Attachment 2

SUMMARY NOTES
ORANGE COUNTY PLANNING BOARD
NOVEMBER 3, 2021
ORDINANCE REVIEW COMMITTEE

NOTE: A quorum is not required for Planning Board Ordinance Review Committee meetings or Training Sessions.

Due to current public health concerns, the ORC meeting/training session was virtual. Members of the Planning Board and staff participated in the meeting remotely.

MEMBERS PRESENT: David Blankfard (Chair), Hillsborough Township Representative; Adam Beeman (Vice-Chair), Cedar Grove Township Representative; Lamar Proctor, Cheeks Township Representative; Kim Piracci, Eno Township Representative; Carrie Fletcher, Bingham Township Representative; Statler Gilfillen, At-Large Representative; Randy Marshall, At-Large Representative; Susan Hunter, Chapel Hill Township Representative; Whitney Watson, At-Large Representative; Melissa Poole, Little River Township Representative; Charity Kirk, At-Large Representative;

STAFF PRESENT: Perdita Holtz, Planning Systems Coordinator; Michael Harvey, Current Planning Supervisor; Ashley Moncado, Planner II; Tina Love, Administrative Support

AGENDA ITEM 1: CALL TO ORDER

AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – DECRIMINALIZATION OF ORDINANCE VIOLATIONS- To review proposed UDO amendments in response to Session Law 2021-138 (Senate Bill 300) which decriminalized violations of certain types of ordinances, including ordinance regulating planning and development.
PRESENTER: Michael Harvey, Current Planning Supervisor

Michael Harvey gave the Planning Board members background and information regarding the need to amend the UDO in response to legislative changes regarding decriminalization of violations as it related to some planning and development land use regulations and answered questions.

Charity Kirk: We have to do this because the state has made a law change, we don't really have a choice.

Michael Harvey: Correct, state law now says you can no longer do this (i.e. impose criminal penalties) to enforce a land use regulation. We're engaging in an ordinance amendment to make sure we are consistent with state law.

Lamar Proctor: You are still permitted to seek criminal charges for some violations, right?

Michael Harvey: Correct, we still have legal authority to seek a criminal charge for a violation of erosion control and flood plain regulations.

Statler Gilfillen: This is mostly procedural and you've not had experiences in the past where you've ever had to formally file a criminal charge.

Michael Harvey: Correct, in 25 years as a planner and being an enforcement officer, I have never filed a criminal charge for violation of land use regulations.

Statler Gilfillen: As an extreme hypothetical, if someone had 100 acres and decided to bring in truckloads of nuclear waste and dump it in the middle of the property and they do it consciously and willfully, where does something like that fall?

Approved December 1, 2021

54 Michael Harvey: We would seek an order of cessation and abatement through the court system. We could not seek criminal
55 charges any longer. The federal or state governments may be able to seek some sort of criminal redress but we cannot.

56
57 Perdita Holtz: The UDO deals with land use issues and there are other laws that apply to nuclear waste being dumped so I
58 don't want people to go away thinking this is the only way for recourse.

59
60 Lamar Proctor: As a prosecutor of Orange County for 13 years, I have only had one case referred to me and that was by the
61 Carrboro Planning Department. The criminal court is really poorly equipped to deal with these sorts of cases that deal with
62 injunctions and civil penalties. You are much better off seeking injunctive relief and civil relief. If there's an environmental
63 problem or violation that gets to the level of state statutes, then the State Department of Environment Quality will jump in, the
64 AG's office and I have dealt with that. I had a case once with illegal sewage that was going into a stream. If it gets to a certain
65 level, state authorities would jump in.

66
67 Carrie Fletcher: What initiated this?

68
69 Michael Harvey: I wish I could tell you. I'm sure that local district attorneys did not want to deal with some of the idiosyncrasies
70 of a land use issue through a criminal proceeding. The burden of proof becomes more difficult for criminal proceedings versus
71 seeking an injunction or getting payment for civil penalty. It's probably an attempt to try to guarantee a more effective use of
72 the court's time. This only impacts the methods available with respect to the enforcement of local land use regulations.

73
74 Kim Piracci: Mine is more of a comment than a question. I actually feel better that Lamar feels ok with this because if he didn't
75 feel ok with it I would really feel not ok with it. In my mind there's what's legal and there's what's moral and ethical. Just
76 because the state is saying this, I can imagine a situation where there is a land use violation and it's pretty extreme and this
77 person doesn't care because nothing is really going to happen. Financially, he or she is going to come out ahead by breaking
78 the law so even though we have to do this, I'm going to vote no. I feel like this is a tool that might come in handy sometime
79 somewhere. I'm not trying to convince anybody else that they have to vote my way, I'm not getting it.

80
81 Michael Harvey: I respect your opinion. Unfortunately, this is not something that we're going to have the authority under state
82 law to pursue. I'm not saying that you are not entitled to your opinion and I'm certainly not saying you are wrong in an attempt
83 to diminish the value of your opinion. What I am saying is that the law no longer gives me this as a viable option to address an
84 identified violation of a local land use law. This is what I've been asked to do, state law no longer gives me the authority to do it
85 so we are eliminating it because state law has taken it out of our toolbox.

86
87 Kim Piracci: Right, and it doesn't matter how we vote the County Commissioners are going to do what they need to do
88 anyway.

89
90 Michael Harvey: Where we have violations that transcend land use issues, we've always had willing partnerships at the state
91 level to assist us and we not only involve state offices but also Orange County Solid Waste. I think that we have enough
92 arrows in the quiver to address the problem and effectively guarantee compliance. Yes, there's a component of the
93 enforcement strategy being eliminated, I don't think it's that effective.

94
95 Lamar Proctor: I do think that the State Legislature seems to have streamlined things for developers to make things easier for
96 economic development and I think part of that is because developers and lobbyist didn't want to be subject to criminal penalties
97 if something goes sideways on a land use thing. It could be an attempt to remove any threat for criminal prosecution. I do
98 understand Kim's point. Removing criminal penalties for egregious land use violations feels wrong but I agree with Michael
99 that most DA offices don't want to deal with those sort of cases. This doesn't strike me as giving away the environment.

100
101
102
103
104

AGENDA ITEM 4: ADJOURNMENT

The ORC session was adjourned at 8:04 p.m.

Excerpt of Draft Minutes

DRAFT
MEETING MINUTES
ORANGE COUNTY PLANNING BOARD
DECEMBER 1, 2021
REGULAR MEETING

(Due to current public health concerns, this meeting was held virtually.
Members of the Planning Board, staff and public participated remotely)

MEMBERS PRESENT: David Blankfard (Chair), Hillsborough Township Representative; Adam Beeman (Vice-Chair), Cedar Grove Township Representative; Lamar Proctor, Cheeks Township Representative; Kim Piracci, Eno Township Representative; Carrie Fletcher, Bingham Township Representative; Statler Gilfillen, At-Large Representative; Randy Marshall, At-Large Representative; Susan Hunter, Chapel Hill Township Representative; Whitney Watson, At-Large Representative; Melissa Poole, Little River Township Representative; Alexandra Allman, At-Large Representative;

MEMBERS ABSENT: Charity Kirk, At-Large Representative;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor; Ashley Moncado, Planner II; Tina Love, Administrative Support

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

Chair David Blankfard called the meeting to order.

AGENDA ITEM 7: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – DECRIMINALIZATION OF THE ORDINANCE VIOLATION – To make a recommendation to the BOCC on Planning Director-initiated amendments to the UDO in response to Session Law 2021-138 (Senate Bill 300) which decriminalized violations of certain types of ordinances, including ordinances regulating planning and development. This item was reviewed at the November 3, 2021 ORC meeting and is scheduled for BOCC Public Hearing on December 14, 2021.
PRESENTER: Michael Harvey, Current Planning Supervisor

Michael Harvey reviewed this item and reminded the Board that it was reviewed and discussed at the November 3, 2021 ORC meeting.

MOTION BY Adam Beeman to approve statement of consistency and recommend approval to the BOCC. Seconded by Melissa Poole.

ROLLCALL VOTE:

- Statler Gilfillen Yes
- Lamar Proctor Yes
- Susan Hunter Yes
- Kim Piracci No
- Carrie Fletcher Yes
- Adam Beeman Yes
- Melissa Poole Yes
- Alexandra Allman Yes
- Whitney Watson Yes
- Randy Marshall Yes
- David Blankfard Yes

MOTION PASSED 10 – 1 (PIRACCI)

Randy Marshall was kicked off due to internet issues as he attempted to vote

Kim Piracci: I did explain that last month why I wasn't going to support it. I know of a developer who has broken so many planning, so many things that he was not allowed to do and as far as I'm concerned, he should be in prison. It looks like there is nothing going to happen to him and so it seems like it is a tool in the toolbox that could be used, maybe not with the current County Staff we have now but in the future. When someone who is oblivious to laws that are in place including planning, that's all.

**STATEMENT OF APPROVAL AND CONSISTENCY
OF A PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH ADOPTED ORANGE COUNTY PLANS**

Orange County has initiated amendments to the Unified Development Ordinance (UDO) eliminating existing language allowing staff to seek criminal penalties for violations of certain land use regulations in accordance with recent changes in State law.

The Planning Board hereby recommends approval of the proposed text amendment and finds:

a. The requirements of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO have been deemed complete; and,

b. Pursuant to Sections:

▪ 1.1.5 *Statement of Intent - Amendments*, and

▪ 1.1.7 *Conformance with Adopted Plans*

of the UDO and to Section 160D-604(d) *Planning Board review and comment – Plan Consistency* and 160D-605(a) *Governing Board Statement – Plan Consistency* of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.

1. The amendment is consistent with applicable plans because it supports the following:

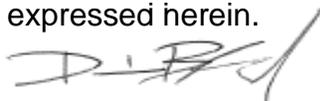
- Land Use Goal 6 of the 2030 Comprehensive Plan – *A land use planning process that is transparent, fair, open, efficient, and responsive.*

The amendment is consistent with this goal and objective by ensuring County regulations are consistent with recent changes in State law related to the decriminalization of certain types of ordinances. By adopting the amendment, the County will be operating in accordance with the authority granted to it by the State.

c. The amendment is reasonable and in the public interest because it:

1. Ensures the legal sufficiency of County regulations with State law.

The Planning Board hereby adopts this Statement of Approval and Consistency as well as the findings expressed herein.



David Blankfard, Chair

12.03.2021

Date

Attachment 4

**STATEMENT OF APPROVAL AND CONSISTENCY
OF A PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH ADOPTED ORANGE COUNTY PLANS**

Orange County has initiated amendments to the Unified Development Ordinance (UDO) eliminating existing language allowing staff to seek criminal penalties for violations of certain land use regulations in accordance with recent changes in State law.

The Board of County Commissioners (BOCC) hereby approves the proposed text amendment and finds:

a. The requirements of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO have been deemed complete; and,

b. Pursuant to Sections:

▪ 1.1.5 *Statement of Intent - Amendments*, and

▪ 1.1.7 *Conformance with Adopted Plans*

of the UDO and to Section 160D-604(d) *Planning Board review and comment – Plan Consistency* and 160D-605(a) *Governing Board Statement – Plan Consistency* of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.

1. The amendment is consistent with applicable plans because it supports the following:

- Land Use Goal 6 of the 2030 Comprehensive Plan – *A land use planning process that is transparent, fair, open, efficient, and responsive.*

The amendment is consistent with this goal and objective by ensuring County regulations are consistent with recent changes in State law related to the decriminalization of certain types of ordinances. By adopting the amendment, the County will be operating in accordance with the authority granted to it by the State.

c. The amendment is reasonable and in the public interest because it:

1. Ensures the legal sufficiency of County regulations with State law.

The BOCC hereby adopts this Statement of Approval and Consistency as well as the findings expressed herein.

Chair

Date

Ordinance # ORD-2021-030

**AN ORDINANCE AMENDING THE
UNIFIED DEVELOPMENT ORDINANCE OF ORANGE COUNTY**

Whereas, on September 2, 2021, Governor Cooper signed Session Law 2021-138, portions of which decriminalize certain types of ordinances including planning and development regulations, and

Whereas, a review of Orange County’s Unified Development Ordinance (UDO) determined certain amendments were necessary to conform the County’s regulations to the newly signed State law and County staff has completed the necessary amendments to the UDO, and

Whereas, the requirements of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Unified Development Ordinance have been deemed complete, and

Whereas, the Orange County Planning Board has recommended approval of the proposed text amendments, and

Whereas, the County has held the required public hearing and has found the proposed text amendments are consistent with the goals and policies of the adopted Comprehensive Plan.

Be it ordained by the Board of Commissioners of Orange County that the Unified Development Ordinance is hereby amended as depicted in the attached pages.

Be it further ordained that this ordinance be placed in the book of published ordinances and that this ordinance is effective upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2021.

I, Laura Jensen, Clerk to the Board of Commissioners for Orange County, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a meeting held on _____, 2021 as relates in any way to the adoption of the foregoing and that said proceedings are recorded in the minutes of the said Board.

WITNESS my hand and the seal of said County, this _____ day of _____, 2021.

SEAL

Clerk to the Board of Commissioners

UDO AMENDMENT PACKET NOTES:

The following pages contain UDO amendments eliminating existing language within Section 9.6.5 allowing staff to seek criminal penalties for violations of certain land use regulations in accordance with recent changes in State law.

Within this amendment package:

- **Red Underlined Text**: Denotes new, proposed text that staff is suggesting be added to the UDO
- **~~Red Strikethrough Text~~**: Denotes existing text that staff is proposing to delete

Only those pages of the UDO impacted by the proposed modifications have been included within this packet. Some text on the following pages has a large “X” through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment or footnotes from previous sections ‘spill over’ onto the included page. Text with a large “X” is not proposed for deletion.

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at:

<http://www.orangecountync.gov/DocumentCenter/View/8305/Unified-Development-Ordinance-PDF>

If the violation has been corrected, the Planning Director shall take no further action against the alleged violator. If the violation has not been corrected, the Planning Director may act to impose one or more of the remedies and penalties specified in the notice of violation, correction order, or Stop Work Order.

- (F) If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Planning Director may seek immediate enforcement without prior written notice through any of the remedies or penalties detailed herein.

9.5.6 Final Notice of Violation and/or Correction Order

- (A) The Planning Director's final written notice of violation (which may be the initial notice) shall also order correction of the violation. If the identified violation is not corrected within the timeframe stated in the Initial Notice of Violation or the decision is not appealed to the Board of Adjustment within the specified timeframes identified in the Initial Notice, a final written notice of violation shall be issued ordering the correction of the violation. This final notice shall:
- (1) Specify a reasonable time period in which the violation must be corrected, and
 - (2) State the remedies and penalties authorized within this Ordinance that the Planning Director may pursue if the violation is not corrected within the specified time limit.
- (B) The final written notice of violation shall be served upon the responsible person(s), either in person, posting the notice at the property in violation, or by certified or registered mail, return receipt requested. When service is made by certified mail, a copy of the notice shall also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten days after mailing, provided that a final notice of violation is posted in a conspicuous place on the premises affected.
- (C) A notice is also not required where action is taken under 9.6.2, 9.6.3, and/or 9.6.65.¹

9.5.7 Recurring Violations

A new initial notice of violation is not required where a notice of a violation of the same kind has been issued to the same violator at the same property within the previous two years. In such cases, the violator may be charged with a continuing violation without further notice, as provided in this Section.

9.5.8 Performance Standards

- (A) **Planning Director Determination**
- Where the Planning Director determines that there is a violation of performance standards relating to emission of smoke, odor and explosive hazards influence, he/she shall take or cause to be taken lawful action to cause correction to within the limits set by such performance standards. Failure to obey lawful orders concerning such correction shall be punishable as provided herein.
- (B) **Technical Determinations**
- If the Planning Director believes there is a violation but is unable to make a final determination due to insufficient evidence, the following procedures shall apply.

¹ The section number referenced is changing. The amendment is intended to reference this change.

- (1) The Planning Director shall give written notice, by certified mail, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the Planning Director believes there is a violation, and shall require an answer or correction of the alleged violation within a specified time limit. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation within the specified time limit set constitutes admission of violation of the terms of this Ordinance.
- The notice shall further state that upon request of those to whom it is directed, technical determinations as described in this Ordinance will be made, and that if violations as alleged are found, costs of such determinations shall be charged against those responsible for the violation, in addition to such other penalties as may be appropriate. If it is determined that no violations exist, the cost of the determination will be paid by the County.
- (2) If there is no reply within the specified time limit, and the alleged violation is corrected, it shall be noted, "violation corrected" on the copy of the notice, and shall be retained among the official records, taking such other action as may be warranted.
- (3) If there is no reply within the specified time limit, thus establishing admission of violation(s) as provided within (1) above and the alleged violation is not corrected within the specified time limit, action shall be taken as is warranted by continuation of a violation after notice to cease.
- (4) If a reply is received within the specified time limit indicating that the alleged violation will be corrected, but additional time is requested, the Planning Director may grant an extension, if it is deemed warranted in the circumstances of the case and if the extension will not cause imminent peril to life, health or property.
- (5) If reply is received within the specified time limit requesting technical determinations, as provided in this Ordinance, and if the alleged violations continue, the Planning Director may call in properly qualified experts to make the determinations. If expert findings indicate violations of the performance standards, the costs of the determinations shall be assessed against the properties or persons responsible for the violation, in addition to such other penalties as may be appropriate under the terms of this Article. If no violation is found, the costs of the determinations shall be paid by the County, without assessment against the properties or persons involved.

9.5.9 Failure to Comply

If a violator does not comply with a notice of violation, correction order, or Stop Work Order, which has not been appealed, or with a final decision of the Board of Adjustment, the violator shall be subject to enforcement action as prescribed by State law or by this Ordinance.

SECTION 9.6: PENALTIES, REMEDIES, AND ENFORCEMENT POWERS

9.6.1 In General

- (A) The Planning Director may pursue one or more of the remedies and penalties described herein or otherwise authorized by common law or statute to prevent, correct, or abate a violation of this Ordinance.
- (B) Use of one of the authorized remedies and penalties does not preclude the use of any other authorized remedies or penalties, nor does it relieve any party to the imposition of one remedy or penalty from imposition of any other authorized remedies or penalties.

9.6.2 Permit Revocation

- (A) In accord with the provisions of this Ordinance, the Planning Director, upon a written determination, may revoke any permit, certificate, or other authorization granted under

this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance.

- (1) Revocation of any permit or authorization shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing.
- (B) Any permit, certificate, or authorization mistakenly issued in violation of State law or local ordinance, or issued on the basis of misrepresentations by the applicant, owner, or owner's agent may be revoked without such written determination.

9.6.3 Permit Denial or Conditioning

- (A) As long as a violation of this Ordinance remains uncorrected, the Planning Director may deny or withhold approval of any permit, certificate, or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs.
- (B) The Planning Director may also condition a permit, certificate, or authorization on the correction of the violation and/or payment of a civil penalty, and/or posting of a compliance security.

9.6.4 Injunctive and Abatement Relief in Superior Court

- (A) A violation may be corrected by any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement as authorized by NCGS 153A-123.
- (B) The Planning Director shall have the authority to execute an order of abatement if the violator does not comply with such order, and the costs of the execution shall be recovered by a lien on the property in the nature of a mechanic's or materialman's lien.

~~9.6.5 Criminal Penalties~~

- ~~(A) Any person, firm or corporation who violates the provisions of this Ordinance or fails to comply with any of its requirements shall, upon conviction, be guilty of a Class 3 misdemeanor and shall be fined not more than a maximum of \$500.00, imprisonment of up to 30 days, or both, for each violation, as provided in NCGS Section 14-4.~~
- ~~(B) The Planning Director may refer a violation to the District Attorney for institution of criminal prosecution of the alleged violator.²~~

~~9.6.6~~ 9.6.5 Stop Work Order

- ~~(A) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of a Stop Work Order, the Planning Director, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or lands, or to prevent any illegal act, conduct, business or use in or about the premises.~~
- ~~(B) Notice of a Stop Work Order shall be in writing, directed to the person(s) conducting the violating activity and/or the property owner, and shall state the reasons for the issuance of the Order, and the conditions under which activity may be resumed. Notice shall be given by registered or certified mail, return receipt requested. A copy of the notice shall also be sent by regular mail. Service shall be deemed sufficient if the notice by certified mail is unclaimed or refused, but the notice by regular mail is not returned by the post office within ten days after mailing. Upon issuance of such Order, and posting of same on the site of the violation, all work on the site of the violation shall cease, except those activities necessary to bring the site into compliance with this Ordinance.~~

² Recent changes in State law, specifically Session Law 2021-138, decriminalizes certain ordinances including land use regulations. As a result, a violation of County land use regulations is no longer considered to be a criminal offense. Accordingly, staff is required to modify our existing regulations to address the changes in State law.

- ~~(C) The person(s) conducting the violating activity and/or the property owner may appeal the Stop Work Order to the Board of Adjustment pursuant to Section 2.27 of this Ordinance.~~

~~9.6.79.6.6 Civil Penalty~~

- ~~(A) The Planning Director may impose one or more civil penalties and issue one or more Civil Penalty Citations for a violation as provided in this subsection. If the violator does not pay the penalty, the Planning Director may collect it in a court through a civil action in the nature of a debt.~~

(B) Notice

The Planning Director shall give the responsible person(s) and the landowner, if the landowner is not the responsible person(s), written notice of the civil penalty citation, either by personal delivery, electronic delivery, or first class mail. The notice shall include a copy of the notice of violation, the amount of the penalty, information about where to pay the penalty, the deadline for payment, which shall be ten days from the date of the notice, and the possibility of civil ~~and/or criminal~~ enforcement. The Planning Director shall certify that the notice was provided.³

(C) Penalty Amount

The Planning Director may impose a penalty of \$500.00 per day of violation.

- (1) For purposes of assessing the amount of a civil penalty, each day the violation remains uncorrected after receipt of the final notice of violation, correction order, Stop Work Order, or the receipt of the Civil Penalty Citation itself in the case of emergency enforcement, shall constitute a separate violation that subjects the violator to additional civil penalties.

(D) Settlement of Claims

The Planning Director is authorized to determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the governing body may have in connection with the violation. The Planning Director shall indicate in writing the claims from which the violator is released. If the violation has not been remedied, payment shall not release a violator from potential ~~criminal prosecution or a~~ claim for injunctive relief and/or an order of abatement.⁴

(E) Continuing Violations

- (1) The Planning Director may issue a Civil Penalty Citation for a violation that continues without being corrected. The violator in such cases may be assessed a penalty for each day of the continuing violation.
- (2) An initial Civil Penalty Citation for a single violation must be issued before a Civil Penalty Citation for a continuing violation is issued.
- (3) If the violator has failed to pay the penalty and correct the violation after the initial Civil Penalty Citation, the violator is subject to a Civil Penalty Citation for a continuing violation with a daily penalty.
- (4) An initial Civil Penalty Citation is not required if the Department has previously issued a Civil Penalty Citation to the violator for the same violation at the same location within the previous two years.
- (5) The Planning Director may give a single notice of a Civil Penalty Citation for a continuing violation. The notice must contain a copy of the notice of violation and must state that the violation is continuing, that a daily penalty of a specified amount is being imposed, and that the penalty is cumulative.

(F) Judicial Action to Collect Civil Penalty

³ As land use regulations are no longer criminal matters, staff is eliminating language indicating same.

⁴ IBID.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: December 14, 2021

**Action Agenda
Item No.** 5-b

SUBJECT: Proposed Amendments to the Comprehensive Plan Future Land Use Map and Zoning Atlas - Eno Economic Development District (EDD)

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

1. Statement of Consistency
2. Proposed Ordinance Approving Amendments
3. Excerpt of Approved November 3, 2021 Planning Board Minutes and Signed Statement of Consistency
4. Mailed Notification Materials and Legal Advertisement

INFORMATION CONTACT:

Perdita Holtz, Planner III, 919-245-2578
Craig Benedict, Director, 919-245-2575

PURPOSE: To hold a public hearing, receive the Planning Board/staff recommendation and public comment, close the public hearing, and consider action on BOCC-initiated amendments to the Comprehensive Plan Future Land Use Map and to the Zoning Atlas. If adopted, the amendments would contract a portion of the boundary of the Eno Economic Development District (EDD).

BACKGROUND: At its September 14, 2021 meeting, the BOCC voted to initiate amendments to contract the boundary of the Eno EDD and directed staff to proceed with the amendments. Video of the meeting is available at <http://orangecountync.gov/967/Meeting-Videos> (agenda item 6-b).

In 2012, the boundary of the Eno EDD was expanded in anticipation of water and sewer availability. However, recent joint engineering studies have retracted the larger area's viability for public sewer due to Durham system constraints and prohibitive cost. At this time, a smaller primary economic development focus area of 200 acres between I-85 and US 70 remains viable for public sewer and an existing water line adjacent to the area.

The proposed Future Land Use Map and Zoning Atlas amendments affect 112.2 total acres, comprised of 34 parcels. The proposed amendments will prescribe the land uses that will be allowed in the areas that would no longer be part of the Eno EDD.

1. The *Orange County Comprehensive Plan Future Land Use Map (FLUM)* defines the location of future land use categories and is designed to accommodate a particular combination of general land uses. The FLUM helps achieve a desired pattern of development over time and is implemented primarily through zoning. The proposed amendment to this plan would change the affected areas from an Economic Development Activity Node to a 10-Year Transition Activity Node which is a designation primarily for residential land uses.

2. The *Orange County Zoning Atlas* is a map of the County's planning and zoning jurisdiction that assigns all parcels a zoning district. Each zoning districts includes specific standards, as outlined in Article 3 of the Unified Development Ordinance (UDO), and specific allowable uses, as are found in the Table of Permitted Uses in Section 5.2 of the UDO. The proposed amendment would rezone the affected parcels from EDE-1 (Economic Development Eno Lower Intensity) to R-1 (Rural Residential).

Maps depicting the affected areas are included in Attachment 2. As contained in Attachment 4, notifications for the public hearing were mailed to affected property owners and those within 1,000-feet of the affected areas on November 29. Signs were posted by staff in the affected areas on November 29.

Public Information Meeting – October 26, 2021

Planning staff held an on-line public information meeting on October 26. Other than staff, 9 people, including 3 BOCC members, attended the meeting. Questions from attendees focused on basic zoning information and a comment about increasing traffic noise impacts over the years. The video recording can be viewed at: https://orangecountync.zoom.us/rec/share/0JQhU-2iBUVOnTqRdP6j_YudlCN7mn-nKt_laJj9emmX_oD8eZMsT9pNn2HLoEAA.JleGSD2Ns2pGsqKx Passcode: ?1KV92kl

A combined notice for the public information meeting and Planning Board meeting was mailed to affected property owners and those within 1,000-feet of the affected areas on October 11, 2021 (see Attachment 4 for materials). Signs were posted by staff in the affected areas on October 13, 2021.

Planning Board Recommendation: The Planning Board reviewed this item at its November 3, 2021 regular meeting (held via Zoom due to current public health concerns) and voted **unanimously** to recommend **approval** of the amendments. Approved minutes from the meeting and the signed statement of consistency are included in Attachment 3 and meeting materials are available at: <http://orangecountync.gov/AgendaCenter/Planning-Board-26>. No members of the public attended the Planning Board meeting.

Planning Director's Recommendation: The Planning Director recommends **approval** of the Statement of Consistency, indicating the zoning atlas amendments are reasonable and in the public interest, contained in Attachment 1 and the proposed ordinance, which includes both the FLUM and Zoning amendments, contained in Attachment 2.

Note Regarding Written Public Comments: [Session Law 2021-35 \(House Bill 812\)](#) became effective on July 1, 2021. A portion of the amended law pertains to written comments for public hearings held in remote meetings during declared emergencies. The Session Law updated the parameters for public written comments. Written comments on the subject of the public hearing can be submitted by interested persons until 24 hours prior to the scheduled time for the beginning of the public hearing.

FINANCIAL IMPACT: Existing County staff has and will continue to accomplish the necessary tasks associated with these amendments.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this item:

GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board:

1. Conduct the public hearing and accept the Planning Board recommendation and staff/public comment(s);
2. Close the public hearing;
3. Deliberate as desired; and
4. Vote to approve the Statement of Consistency (Attachment 1) and Ordinance Approving the Future Land Use Map and Zoning Atlas Amendments (Attachment 2).

Attachment 1

**STATEMENT OF CONSISTENCY
OF A PROPOSED ZONING ATLAS AMENDMENT
WITH THE ADOPTED ORANGE COUNTY 2030 COMPREHENSIVE PLAN**

The Orange County Board of Commissioners initiated amendments to the Zoning Atlas to rezone 34 parcels of property, totaling 112.2 acres, from EDE-1 (Economic Development Eno Lower Intensity) to R-1 (Rural Residential) as shown on the attached map and as follows:

| Parcel Identification Number (PIN) | Owner on Record (Last/First Name) | Parcel Identification Number (PIN) | Owner on Record (Last/First Name) |
|------------------------------------|--|------------------------------------|--|
| 9892698891 | STANLEY FRANCES A | 0803001017 | COUCH RENE ADAMS COUCH JANET ROGERS |
| 9892699764 | STANLEY FRANCES ARLENE | 0803006178 | WATKINS WILLIAM E WATKINS KATHLEEN R |
| 9892790923 | HAZZARD WALTER W | 0803100055 | ACKERT DEBORAH PASCHALL HRS |
| 9893602164 | ALLCOX ANGELIA C ET AL CARROLL BETH W | 0803100109 | COLLINSGLEN G |
| 9893603598 | BROWN JOSEPH C BROWN MELISSA D | 0803101210 | AGUILAR FRANCISCO A ETAL ROMERO LAURA M |
| 9893608242 | HUDSON DAVID W | 0803102261 | MOISEN MIGUEL A AGUILAR VERONICA M |
| 9893608595 | MIRANDA MARCOS T | 0803104242 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893608714 | DEPARTMENT OF TRANSPORTATION | 0803107244 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893609689 | DEPARTMENT OF TRANSPORTATION | 0803109390 | FINCH MICHAEL STUART FINCH SHARRON H |
| 9893615152 | DURHAM BENJAMIN F III | 0803202254 | HICKS ELIZABETH T |
| 9893619029 | MOORE KATHRYN E | 9892887847 | MCFALLS RUFUS JR |
| 9892692908 | NORTH CAROLINA RAILROAD COMPANY | 9892894495 | MCFALLS RUFUS JR |
| 0802090955 | GILL GLENNA VERNELL BROWN | 9892895043 | NORTH CAROLINA RAILROAD COMPANY |
| 0802092905 | COUCH SHELIA | 9892990026 | NORTH CAROLINA RAILROADCO |
| 0802093923 | WILLSON DARCY M | 9892991685 | MATTHEWSJEFFREY C |
| 0802094831 | CLAYTON WILLIAM G CLAYTON RACHEL L | 9892996872 | HINSDALE KEVIN L HINSDALE SONYA W |
| 0802194933 | NORTH CAROLINA RAILROAD COMPANY | 9892998862 | CLAYTON WILLIAM G CLAYTON RACHEL |

Two overlay districts also apply to the geographic area (Watershed Protection and Major Transportation Corridor). No modifications are being proposed to the boundaries of the two overlay districts and requirements related to the overlay districts will continue to apply.

The Planning Board hereby finds:

- a. The requirements of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO have been deemed complete; and,
- b. Pursuant to Sections:
 - 1.1.5 *Statement of Intent - Amendments*, and
 - 1.1.7 *Conformance with Adopted Plans*

of the UDO and to Section 160D-604(d) *Planning Board review and comment – Plan Consistency* and 160D-605(a) *Governing Board Statement – Plan Consistency* of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.

1. The amendment is consistent with applicable plans because it supports the following:

- Services and Community Facilities Goal 1: Efficient provisions of public water and sewer service systems which are consistent with the Land Use Plan and which abide by the current Water and Sewer Management Planning Boundary Agreement, the existing Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Land Use Plan, and future agreements to be negotiated among the County and public and private service.

These amendments are consistent with this goal by downzoning areas that are not expected to be served by water and sewer in the near future.

- Economic Development Objective ED-2.1: Encourage compact and higher density development in areas served by water and sewer.

The amendment is consistent with this objective by downzoning areas that are not expected to be served by water and sewer in the near future.

c. The amendment is reasonable and in the public interest because it:

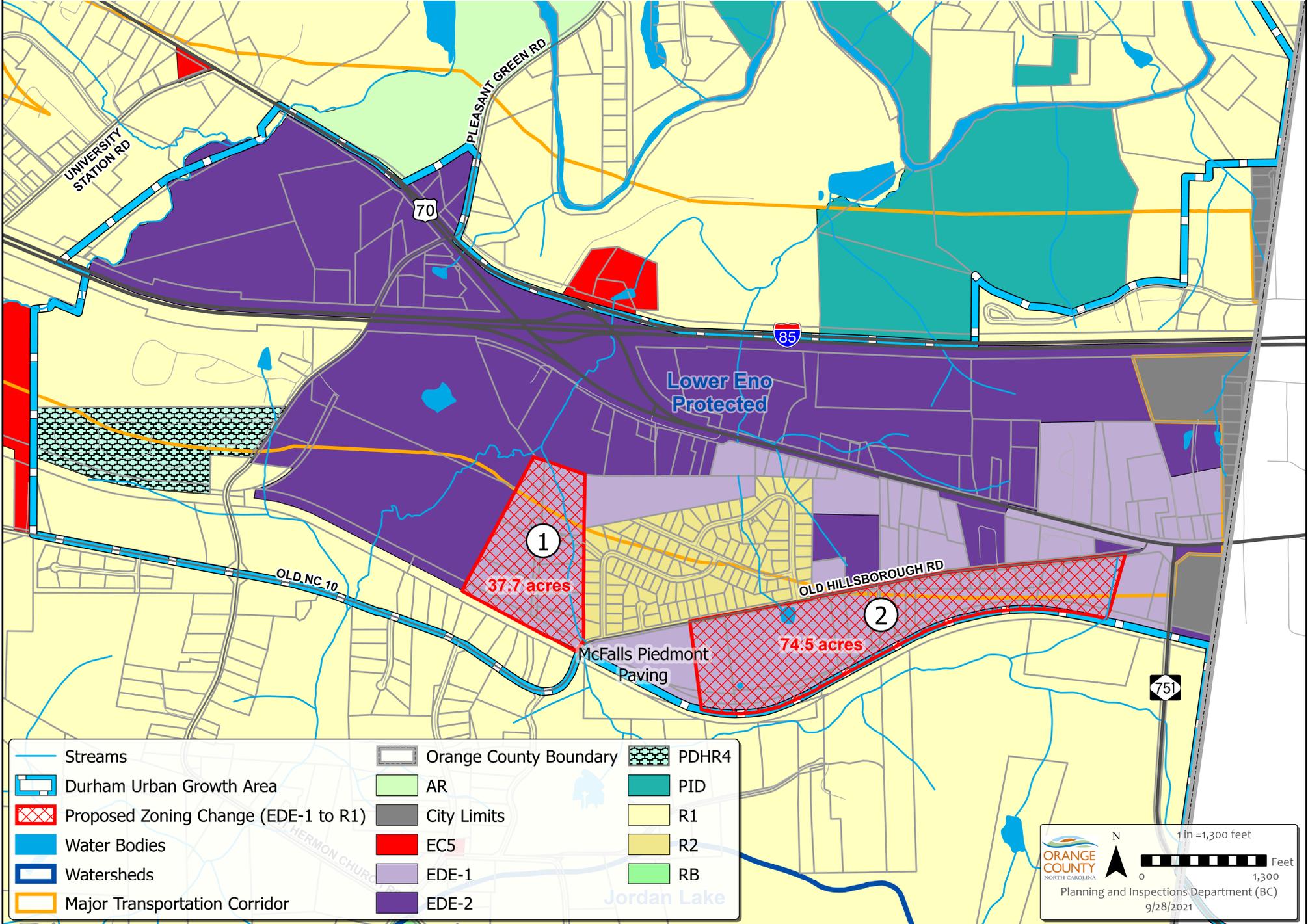
1. Recognizes a utility infrastructure constraint and downzones properties to residential uses prior to any conversion of affected properties to non-residential uses.

The Orange County Board of Commissioners hereby adopts this Statement of Consistency as well as the findings expressed herein.

Chair

Date

Eno EDD Area - Proposed Zoning Amendments



| | | | | | |
|--|--------------------------------------|--|------------------------|--|-------|
| | Streams | | Orange County Boundary | | PDHR4 |
| | Durham Urban Growth Area | | AR | | PID |
| | Proposed Zoning Change (EDE-1 to R1) | | EC5 | | R1 |
| | Water Bodies | | City Limits | | R2 |
| | Watersheds | | EDE-1 | | RB |
| | Major Transportation Corridor | | EDE-2 | | |

1 in = 1,300 feet

0 1,300 Feet

ORANGE COUNTY NORTH CAROLINA

Planning and Inspections Department (BC)

9/28/2021

Ordinance #: ORD-2021-031

**AN ORDINANCE AMENDING THE
ORANGE COUNTY COMPREHENSIVE PLAN FUTURE LAND USE MAP AND
THE ORANGE COUNTY ZONING ATLAS**

WHEREAS, Orange County has initiated amendments to the:

- Orange County Comprehensive Plan Future Land Use Map, as established in Section 1.7 of the Orange County Unified Development Ordinance (UDO), and
- Orange County Zoning Atlas, as established in Section 1.2 of the Orange County UDO, and

WHEREAS, the proposed amendments to the Orange County Comprehensive Plan Future Land Use Map consist of the following:

- Amend 34 parcels, totaling 112.2 acres, located in the vicinity of Old NC 10/Old Hillsborough Road, west of the Durham/Orange County line from Economic Development Transition Activity Node to 10-Year Transition, and
- One overlay land use classification applies in this geographic area (Resource Protection Area). No modifications are being proposed to the boundary, and

WHEREAS, the following parcels are affected by the amendment proposal:

| Parcel Identification Number (PIN) | Owner on Record (Last/First Name) | Parcel Identification Number (PIN) | Owner on Record (Last/First Name) |
|------------------------------------|--|------------------------------------|--|
| 9892698891 | STANLEY FRANCES A | 0803001017 | COUCH RENE ADAMS COUCH JANET ROGERS |
| 9892699764 | STANLEY FRANCES ARLENE | 0803006178 | WATKINS WILLIAM E WATKINS KATHLEEN R |
| 9892790923 | HAZZARD WALTER W | 0803100055 | ACKERT DEBORAH PASCHALL HRS |
| 9893602164 | ALLCOX ANGELIA C ET AL CARROLL BETH W | 0803100109 | COLLINSGLEN G |
| 9893603598 | BROWN JOSEPH C BROWN MELISSA D | 0803101210 | AGUILAR FRANCISCO A ETAL ROMERO LAURA M |
| 9893608242 | HUDSON DAVID W | 0803102261 | MOISEN MIGUEL A AGUILAR VERONICA M |
| 9893608595 | MIRANDA MARCOS T | 0803104242 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893608714 | DEPARTMENT OF TRANSPORTATION | 0803107244 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893609689 | DEPARTMENT OF TRANSPORTATION | 0803109390 | FINCH MICHAEL STUART FINCH SHARRON H |
| 9893615152 | DURHAM BENJAMIN F III | 0803202254 | HICKS ELIZABETH T |
| 9893619029 | MOORE KATHRYN E | 9892887847 | MCFALLS RUFUS JR |
| 9892692908 | NORTH CAROLINA RAILROAD COMPANY | 9892894495 | MCFALLS RUFUS JR |
| 0802090955 | GILL GLENNA VERNELL BROWN | 9892895043 | NORTH CAROLINA RAILROAD COMPANY |
| 0802092905 | COUCH SHELIA | 9892990026 | NORTH CAROLINA RAILROADCO |
| 0802093923 | WILLSON DARCY M | 9892991685 | MATTHEWSJEFFREY C |
| 0802094831 | CLAYTON WILLIAM G CLAYTON RACHEL L | 9892996872 | HINSDALE KEVIN L HINSDALE SONYA W |
| 0802194933 | NORTH CAROLINA RAILROAD COMPANY | 9892998862 | CLAYTON WILLIAM G CLAYTON RACHEL |

WHEREAS, the proposed rezoning consists of the following:

- Rezone 34 parcels, totaling 112.2 acres, located in the vicinity of Old NC 10/Old Hillsborough Road, west of the Durham/Orange County line from EDE-1 (Economic Development Eno Lower Intensity) to R-1 (Rural Residential), and
- Two overlay districts apply in this geographic area (Watershed Protection and Major Transportation Corridor). No modifications are being proposed to the boundaries of the two overlay districts, and

WHEREAS, the following parcels are affected by the rezoning proposal:

| Parcel Identification Number (PIN) | Owner on Record (Last/First Name) | Parcel Identification Number (PIN) | Owner on Record (Last/First Name) |
|------------------------------------|--|------------------------------------|--|
| 9892698891 | STANLEY FRANCES A | 0803001017 | COUCH RENE ADAMS COUCH JANET ROGERS |
| 9892699764 | STANLEY FRANCES ARLENE | 0803006178 | WATKINS WILLIAM E WATKINS KATHLEEN R |
| 9892790923 | HAZZARD WALTER W | 0803100055 | ACKERT DEBORAH PASCHALL HRS |
| 9893602164 | ALLCOX ANGELIA C ET AL CARROLL BETH W | 0803100109 | COLLINS GLEN G |
| 9893603598 | BROWN JOSEPH C BROWN MELISSA D | 0803101210 | AGUILAR FRANCISCO A ETAL ROMERO LAURA M |
| 9893608242 | HUDSON DAVID W | 0803102261 | MOISEN MIGUEL A AGUILAR VERONICA M |
| 9893608595 | MIRANDA MARCOS T | 0803104242 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893608714 | DEPARTMENT OF TRANSPORTATION | 0803107244 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893609689 | DEPARTMENT OF TRANSPORTATION | 0803109390 | FINCH MICHAEL STUART FINCH SHARRON H |
| 9893615152 | DURHAM BENJAMIN F III | 0803202254 | HICKS ELIZABETH T |
| 9893619029 | MOORE KATHRYN E | 9892887847 | MCFALLS RUFUS JR |
| 9892692908 | NORTH CAROLINA RAILROAD COMPANY | 9892894495 | MCFALLS RUFUS JR |
| 0802090955 | GILL GLENNA VERNELL BROWN | 9892895043 | NORTH CAROLINA RAILROAD COMPANY |
| 0802092905 | COUCH SHELIA | 9892990026 | NORTH CAROLINA RAILROADCO |
| 0802093923 | WILLSON DARCY M | 9892991685 | MATTHEWSJEFFREY C |
| 0802094831 | CLAYTON WILLIAM G CLAYTON RACHEL L | 9892996872 | HINSDALE KEVIN L HINSDALE SONYA W |
| 0802194933 | NORTH CAROLINA RAILROAD COMPANY | 9892998862 | CLAYTON WILLIAM G CLAYTON RACHEL |

and

WHEREAS, the proposals have been found to be consistent with the 2030 Orange County Comprehensive Plan, and

WHEREAS, the requirements of Sections 2.3 and 2.8 of the UDO have been deemed complete, and

WHEREAS, the Board has found the proposed amendments to be reasonably necessary to promote the public health, safety, and general welfare.

BE IT ORDAINED by the Board of Commissioners of Orange County that the Orange County Comprehensive Plan Future Land Use Map and the Orange County Zoning Atlas are hereby amended as described above and depicted on the attached maps.

BE IT FURTHER ORDAINED THAT this ordinance be placed in the book of published ordinances and that this ordinance is effective upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2021.

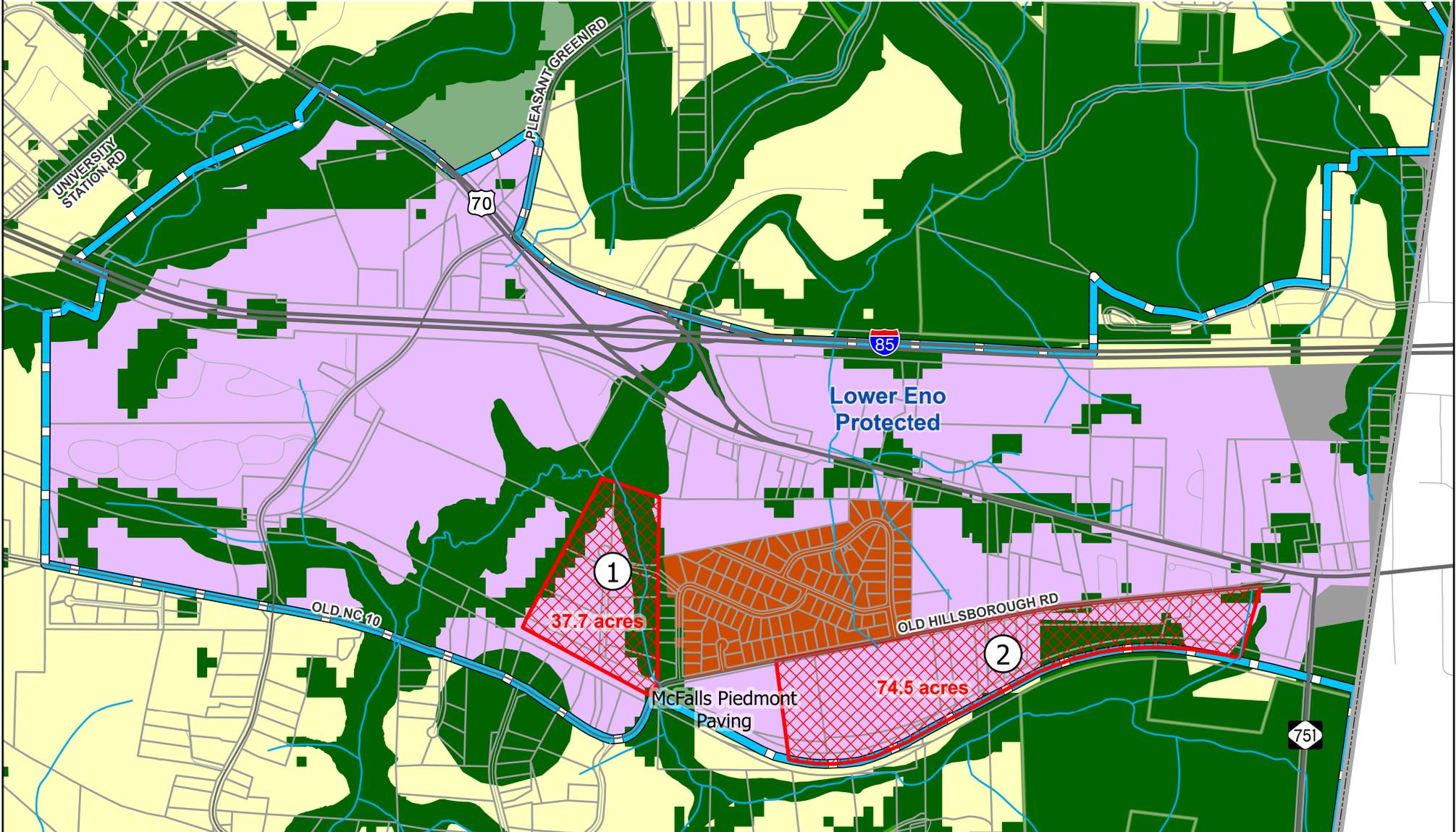
I, Laura Jensen, Clerk to the Board of Commissioners for Orange County, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a meeting held on _____, 2021 as relates in any way to the adoption of the foregoing and that said proceedings are recorded in the minutes of the said Board.

WITNESS my hand and the seal of said County, this _____ day of _____, 2021.

SEAL

Clerk to the Board of Commissioners

Eno EDD Area - Proposed Future Land Use Map Amendments



| | | |
|---|--------------------------|---------------------------------|
| Streams | Orange County Boundary | City Limits |
| Water Bodies | 10 Year Transition | Economic Development Transition |
| Proposed Future Land Use Map Change (Economic Development Transition to 10 Year Transition) | Rural Residential | Public Interest Areas |
| Durham Urban Growth Area | Rural Buffer | Resource Protection Areas |
| | Agricultural Residential | Watersheds |

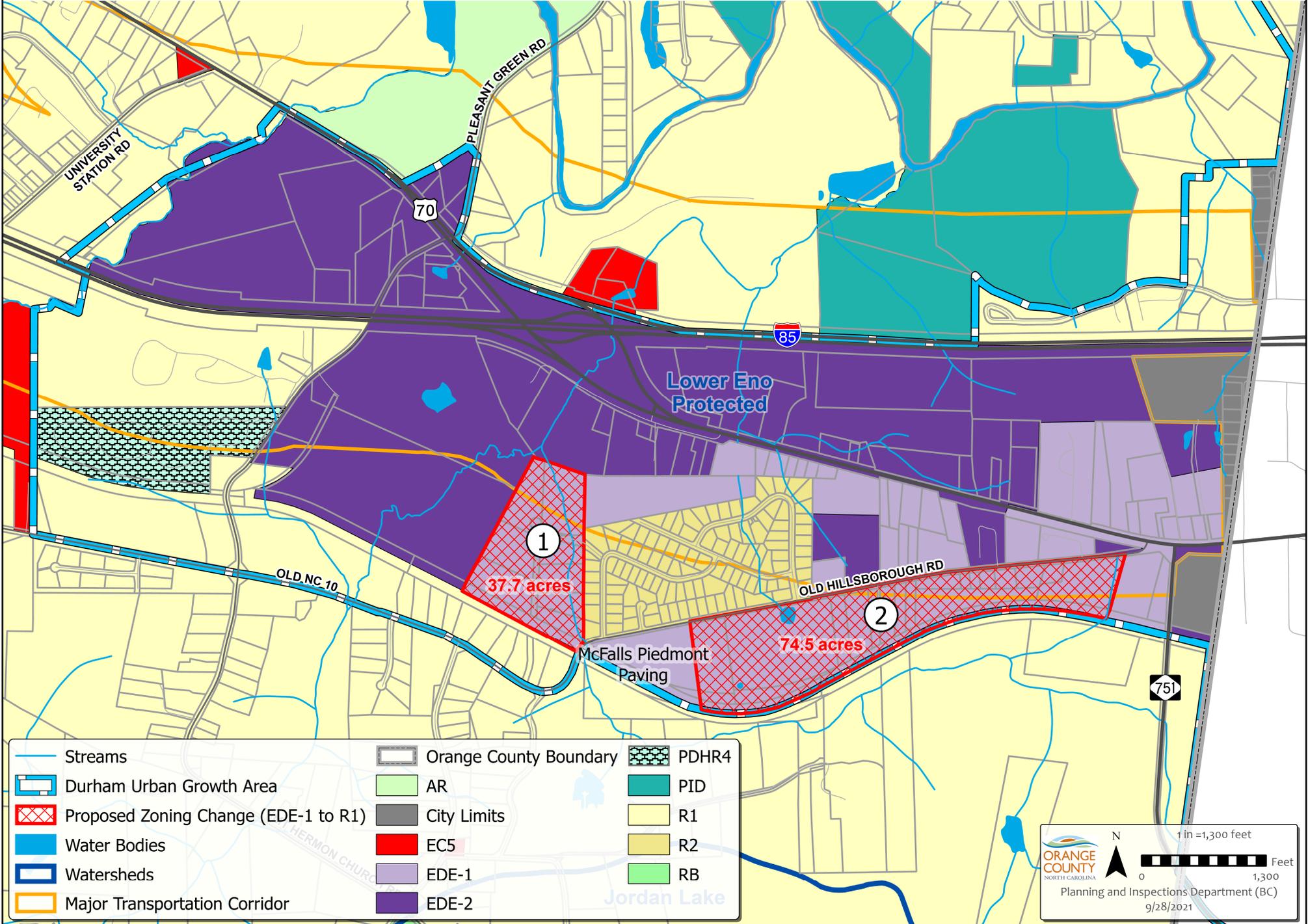
ORANGE COUNTY NORTH CAROLINA

1 in = 1,300 feet

0 1,300 Feet

Planning and Inspections Department (BC)
9/28/2021

Eno EDD Area - Proposed Zoning Amendments



| | | | | | |
|--|--------------------------------------|--|------------------------|--|-------|
| | Streams | | Orange County Boundary | | PDHR4 |
| | Durham Urban Growth Area | | AR | | PID |
| | Proposed Zoning Change (EDE-1 to R1) | | City Limits | | R1 |
| | Water Bodies | | EC5 | | R2 |
| | Watersheds | | EDE-1 | | RB |
| | Major Transportation Corridor | | EDE-2 | | |

1 in = 1,300 feet

ORANGE COUNTY NORTH CAROLINA

Planning and Inspections Department (BC)

9/28/2021

Excerpt of Minutes

MEETING MINUTES
ORANGE COUNTY PLANNING BOARD
NOVEMBER 3, 2021
REGULAR MEETING

(Due to current public health concerns, this meeting was held virtually.
Members of the Planning Board, staff and public participated remotely)

MEMBERS PRESENT: David Blankfard (Chair), Hillsborough Township Representative; Adam Beeman (Vice-Chair), Cedar Grove Township Representative; Lamar Proctor, Cheeks Township Representative; Kim Piracci, Eno Township Representative; Carrie Fletcher, Bingham Township Representative; Statler Gilfillen, At-Large Representative; Randy Marshall, At-Large Representative; Susan Hunter, Chapel Hill Township Representative; Whitney Watson, At-Large Representative; Melissa Poole, Little River Township Representative; Charity Kirk, At-Large Representative;

MEMBERS ABSENT: Alexandra Allman, At-Large Representative;

STAFF PRESENT: Perdita Holtz, Planning Systems Coordinator; Michael Harvey, Current Planning Supervisor; Ashley Moncado, Planner II; Tina Love, Administrative Support

AGENDA ITEM 6: AMENDMENTS TO THE ORANGE COUNTY COMPREHENSIVE PLAN FUTURE LAND USE MAP AND TO THE ORANGE COUNTY ZONING ATLAS – ENO ECONOMIC DEVELOPMENT DISTRICT (EDD) – To make a recommendation to the BOCC on BOCC-initiated amendments to the two maps listed in the title. The proposed amendments to the Future Land Use Map (FLUM) would change the land use classification of 112.2 acres of land, comprised of 34 parcels, from Economic Development District Transition Activity Node to 10-Year Transition. The same parcels are also proposed to be rezoned from EDE-1 (Economic Development Eno Lower Intensity) to R-1 (Rural Residential) This item is scheduled for BOCC Public Hearing on December 14, 2021.

PRESENTER: Perdita Holtz, Planning Systems Coordinator

Perdita Holtz presented a PowerPoint presentation to the Board and provided background information and answered questions.

David Blankfard: Will this allow existing the pump station to serve everything else that is currently in the EDD.

Perdita Holtz: A lot of the existing uses in the EDD are on well and septic and not hooked up to existing sewer. The capacity for the pump station is focused on that 200 acres plus the development that Durham is anticipating on its side of the county line.

Adam Beeman: What is the long-term plan in Orange County for waste treatment? Seems like we're sending off to Mebane and Durham and Durham has that explosion of growth on the border so it would be nice to have some sort of commercial options available.

Perdita Holtz: There is no plan for Orange County to get into what we call the water and sewer business. That has been left to the municipalities not just Durham and Mebane but also Hillsborough, Chapel Hill and Carrboro. Chapel Hill and Carrboro being through OWASA.

Adam Beeman: So we have no intentions of trying to deal with that as far as the County is concerned?

Perdita Holtz: That has been the political decision that was made to date.

Adam Beeman: Well I think we need to rethink that because it's not going to work. If we are going to look at ourselves along the industrial corridor, I-40 and I-85, because we are relying on other people. That limits any kind of commercial growth. That concerns me not having any thoughts of potential restaurants, etc. We're going to limit ourselves the whole

- 55 way down the highway and they're just going to go to other counties to spend their money because we don't want to deal
56 with waste.
- 57
- 58 Lamar Proctor: Orange County doesn't have any water and sewer infrastructure anywhere close to this area.
- 59
- 60 Perdita Holtz: Orange County doesn't have water and sewer infrastructure at all. It's all with other entities, municipalities,
61 OWASA and Orange Alamance Water System in Efland.
- 62
- 63 Lamar Proctor: These 100+ acres, if they are rezoned back to R-1, does there need to be a shift anywhere else. Is there
64 some master amount of acreage that needs to be a certain zone?
- 65
- 66 Perdita Holtz: No, the EDD districts that are affiliated with the Eno and Buckhorn Districts are 2 areas that do not actually
67 require non-residential to hook up to a public water and sewer system.
- 68
- 69 David Blankfard: Is it common that NC counties are not in the water and sewer business?
- 70
- 71 Perdita Holtz: It's more common than not. They can be but it's a very expensive endeavor. To build and maintain a
72 wastewater treatment plant is a lot of money, 10s and 10s of millions of dollars and then there's the upkeep. A lot of
73 permitting because of discharge into rivers and streams or you have to use spray irrigation. It's more common that
74 counties are in the water business where they have a water system but no sewer system.
- 75
- 76 Charity Kirk: It the area of the map (yellow) the area of higher density is that R-2?
- 77
- 78 Perdita Holtz: It is, that's Whispering Pines Subdivision and it's R-2 zoning and the difference is minimum lot sizes and
79 setback requirements, the list of uses is the same. R-1 is what the County Commissioners initiated and why the proposal
80 is for R-1. The lots in Whispering Pines subdivision are much smaller than any of the lots around and that is because of
81 the R-2 zoning.
- 82
- 83 Charity Kirk: If this is an economic development zone it makes more sense to encourage density.
- 84
- 85 Perdita Holtz: I believe the County Commissioners are acting as though they do not want it to be an economic
86 development area any more in areas 1 and 2 on this map. When they initiated the amendments they didn't give a reason
87 but from what I've been able to gather, it has to do with the lack of water and sewer and also wanting to have residential
88 where there is existing residential and not have conversion of those lots to other uses.
- 89
- 90 Charity Kirk: The Board of Commissioners seem to know that they want. The point of this is just to recommend that they
91 do it or not?
- 92
- 93 Perdita Holtz: Under statute, the Planning Board makes a recommendation on all Comprehensive Plan and Zoning
94 Amendments and so this is the prescribed process that has to happen.
- 95
- 96 Charity Kirk: Is there a reason we shouldn't recommend it to the R-2?
- 97
- 98 Perdita Holtz: The short answer is no. Also keep in mind the vast majority of these parcels in 37.7 acres and 74.5 acre
99 area already have houses on them.
- 100
- 101 Charity Kirk: So you don't suggest that would be a good idea because they're already developed and we don't want to
102 have to go through and review lot size with the existing owners.
- 103
- 104 Perdita Holtz: Correct.
- 105
- 106 Statler Gilfillen: At the core this is downzoning, if I were a property owner and would be more restricted of the use of my
107 property long-term, I might have comments or questions. Can you tell us the level of public response to this?
- 108

109 Perdita Holtz: There were 6 residents that attended the public information meeting and they just had basic zoning
110 questions. Mostly, they were concerned about being able to continue to have their single family residences. I fielded a
111 handful of phone calls that were basic zoning questions of what it means for their property.
112

113 Whitney Watson: I see that this change, the EDD has been in place for a number of years. If in the future Durham does
114 have additional capacity how difficult would it be to convert these areas back to ED-1 or ED-2?
115

116 Perdita Holtz: It would be the same process as what we're doing now. It is within the primary service area of the
117 WASMPBA agreement and this area is designated as primary service area which means extension of public water and
118 sewer would be allowed. That's one of the roadblocks of putting non-residential zoning outside of those designated
119 primary service areas. That would not occur in this case it would be a rezoning process and a Future Land Use Map
120 process like we are going through right now to change it back if there were any changes in the future.
121

122 Adam Beeman: Hillsborough has no intention of expanding their water and sewer?
123

124 Perdita Holtz: Not to this area, not this far east. My understanding is that they are concerned that their existing growth
125 areas are the sewer capacity that they will be able to handle.
126

127 **MOTION BY** Kim Piracci to approve the recommendation to the BOCC on the Statement of Consistency and the proposed
128 ordinance as shown in Attachment 1 and Attachment 2. Seconded by Statler Gilfillen.
129

130 **ROLLCALL VOTE:**

131 Charity Kirk Yes
132 Susan Hunter Yes
133 Lamar Proctor Yes
134 Kim Piracci Yes
135 Adam Beeman Yes
136 Statler Gilfillen Yes
137 Carrie Fletcher Yes
138 Melissa Poole Yes
139 Whitney Watson Yes
140 Randy Marshall Yes
141 David Blankfard Yes

142 **MOTION PASSED UNANIMOUSLY**
143

**STATEMENT OF CONSISTENCY
OF A PROPOSED ZONING ATLAS AMENDMENT
WITH THE ADOPTED ORANGE COUNTY 2030 COMPREHENSIVE PLAN**

The Orange County Board of Commissioners initiated amendments to the Zoning Atlas to rezone 34 parcels of property, totaling 112.2 acres, from EDE-1 (Economic Development Eno Lower Intensity) to R-1 (Rural Residential) as shown on the attached map and as follows:

| Parcel Identification Number (PIN) | Owner on Record (Last/First Name) | Parcel Identification Number (PIN) | Owner on Record (Last/First Name) |
|---|--|---|--|
| 9892698891 | STANLEY FRANCES A | 0803001017 | COUCH RENE ADAMS COUCH JANET ROGERS |
| 9892699764 | STANLEY FRANCES ARLENE | 0803006178 | WATKINS WILLIAM E WATKINS KATHLEEN R |
| 9892790923 | HAZZARD WALTER W | 0803100055 | ACKERT DEBORAH PASCHALL HRS |
| 9893602164 | ALLCOX ANGELIA C ET AL CARROLL BETH W | 0803100109 | COLLINS GLEN G |
| 9893603598 | BROWN JOSEPH C BROWN MELISSA D | 0803101210 | AGUILAR FRANCISCO A ETAL ROMERO LAURA M |
| 9893608242 | HUDSON DAVID W | 0803102261 | MOISEN MIGUEL A AGUILAR VERONICA M |
| 9893608595 | MIRANDA MARCOS T | 0803104242 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893608714 | DEPARTMENT OF TRANSPORTATION | 0803107244 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893609689 | DEPARTMENT OF TRANSPORTATION | 0803109390 | FINCH MICHAEL STUART FINCH SHARRON H |
| 9893615152 | DURHAM BENJAMIN F III | 0803202254 | HICKS ELIZABETH T |
| 9893619029 | MOORE KATHRYN E | 9892887847 | MCFALLS RUFUS JR |
| 9892692908 | NORTH CAROLINA RAILROAD COMPANY | 9892894495 | MCFALLS RUFUS JR |
| 0802090955 | GILL GLENNA VERNELL BROWN | 9892895043 | NORTH CAROLINA RAILROAD COMPANY |
| 0802092905 | COUCH SHELIA | 9892990026 | NORTH CAROLINA RAILROADCO |
| 0802093923 | WILLSON DARCY M | 9892991685 | MATTHEWSJEFFREY C |
| 0802094831 | CLAYTON WILLIAM G CLAYTON RACHEL L | 9892996872 | HINSDALE KEVIN L HINSDALE SONYA W |
| 0802194933 | NORTH CAROLINA RAILROAD COMPANY | 9892998862 | CLAYTON WILLIAM G CLAYTON RACHEL |

Two overlay districts also apply to the geographic area (Watershed Protection and Major Transportation Corridor). No modifications are being proposed to the boundaries of the two overlay districts and requirements related to the overlay districts will continue to apply.

The Planning Board hereby finds:

- a. The requirements of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO have been deemed complete; and,
- b. Pursuant to Sections:
 - 1.1.5 *Statement of Intent - Amendments*, and
 - 1.1.7 *Conformance with Adopted Plans*

of the UDO and to Section 160D-604(d) *Planning Board review and comment – Plan Consistency* and 160D-605(a) *Governing Board Statement – Plan Consistency* of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.

1. The amendment is consistent with applicable plans because it supports the following:

- Services and Community Facilities Goal 1: Efficient provisions of public water and sewer service systems which are consistent with the Land Use Plan and which abide by the current Water and Sewer Management Planning Boundary Agreement, the existing Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Land Use Plan, and future agreements to be negotiated among the County and public and private service.

These amendments are consistent with this goal by downzoning areas that are not expected to be served by water and sewer in the near future.

- Economic Development Objective ED-2.1: Encourage compact and higher density development in areas served by water and sewer.

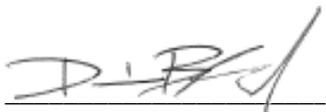
The amendment is consistent with this objective by downzoning areas that are not expected to be served by water and sewer in the near future.

c. The amendment is reasonable and in the public interest because it:

1. Recognizes a utility infrastructure constraint and downzones properties to residential uses prior to any conversion of affected properties to non-residential uses.

The Planning Board hereby adopts this Statement of Approval and Consistency as well as the findings expressed herein.

The Planning Board of Orange County hereby recommends that the Board of County Commissioners consider adoption of the proposed Zoning Atlas amendments.



David Blankfard, Chair

11.12.2021

Date

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

**Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov**



**131 W. Margaret Lane
Suite 201
P O Box 8181
Hillsborough, NC 27278**



CERTIFICATION OF MAILING

**ZONING ATLAS AMENDMENT
ORANGE COUNTY, NORTH CAROLINA**

I, Ashley Moncado, Special Projects Planner with Orange County, North Carolina, DO HEREBY CERTIFY that in accordance with the provisions of Sections 2.3.5 and 2.8.7 of the Orange County Unified Development Ordinance I have mailed, or have caused to be mailed, a Notice of the Public Hearing to be held regarding proposed amendments to the Comprehensive Plan Future Land Use Map and to the Zoning Atlas within the existing Eno Economic Development District.

The owners were identified according to the Tax Records, as required by Section 2.8.7 of the Orange County Unified Development Ordinance.

The mailed notices specified the date, time, place and subject of the Public Hearing.

WITNESS my hand, this 29th day of November 2021.

Ashley Moncado

Ashley Moncado, AICP
Special Projects Planner

Note: all letters in this attachment included the two maps. Maps are shown in this attachment only once to avoid redundancy.

PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278



November 29, 2021

Notice of Public Hearing
for Comprehensive Plan Future Land Use Map and Zoning Atlas
Amendments affecting the
Eno Economic Development District

Dear Property Owner:

This letter is to notify you of an upcoming public hearing pertaining to proposed amendments to the Orange County Comprehensive Plan (specifically the Future Land Use Map contained within the plan) and to the Orange County Zoning Atlas (Map).

Your property, or portion thereof, lies within the geographic area proposed for amendments (see enclosed maps). Additionally, your property is likely located within 1,000-feet of other affected parcels. This notification is occurring in accordance with the provisions of Section 2.3 *Comprehensive Plan Amendments* and Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Orange County UDO.

The Board of County Commissioners initiated amendments to the above referenced maps at its September 14, 2021 meeting. Please see the enclosed maps for specific locations and information. In summary, 112.2 acres of land, comprised of 34 parcels, is proposed for land use classifications/zoning districts that allow for less intense development than could currently potentially be developed.

Information regarding these proposals is available on the Planning Department's website: <http://orangecountync.gov/1722/Current-Interest-Projects>

A **public hearing** on the proposed amendments will be held by the Board of County Commissioners on **Tuesday, December 14, 2021**. Due to current public health concerns, the public hearing will be held in a remote (on-line) setting. The public hearing agenda materials will be published no later than December 10, 2021 at: <https://www.orangecountync.gov/1707/BOCC-Agendas>
Information on how to sign up to speak at the public hearing will be available on the agenda when it is published. Additionally, written comments can be sent via email to the Board of County Commissioners at ocbocc@orangecountync.gov. Pursuant to

State laws, written comments can be submitted until 24 hours prior to the scheduled time for the beginning of the public hearing.

The Orange County Planning Board, an advisory board, considered these amendments at its meeting on November 3, 2021 and has recommended approval of the amendments.

If reviewing the materials on the website does not answer your questions about the proposed amendments, you may call the Planning Department's main line at (919) 245-2575 and you will be directed to a staff member who can assist you.

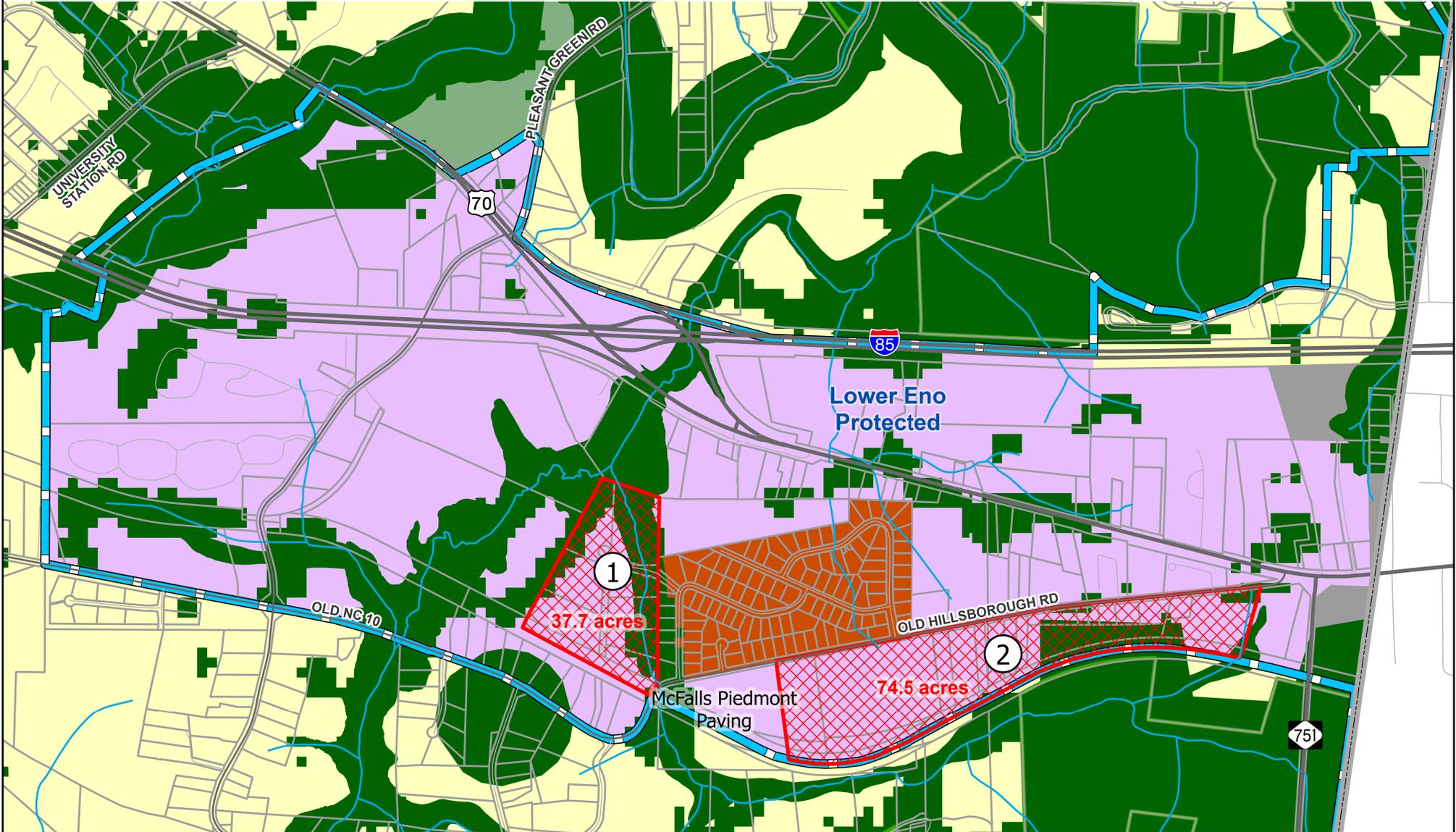
Sincerely,

 for

Craig N. Benedict, AICP
Planning Director

Enclosures (maps)

Eno EDD Area - Proposed Future Land Use Map Amendments



| | | |
|---|--------------------------|---------------------------------|
| Streams | Orange County Boundary | City Limits |
| Water Bodies | 10 Year Transition | Economic Development Transition |
| Proposed Future Land Use Map Change (Economic Development Transition to 10 Year Transition) | Rural Residential | Public Interest Areas |
| Durham Urban Growth Area | Rural Buffer | Resource Protection Areas |
| | Agricultural Residential | Watersheds |

ORANGE COUNTY NORTH CAROLINA

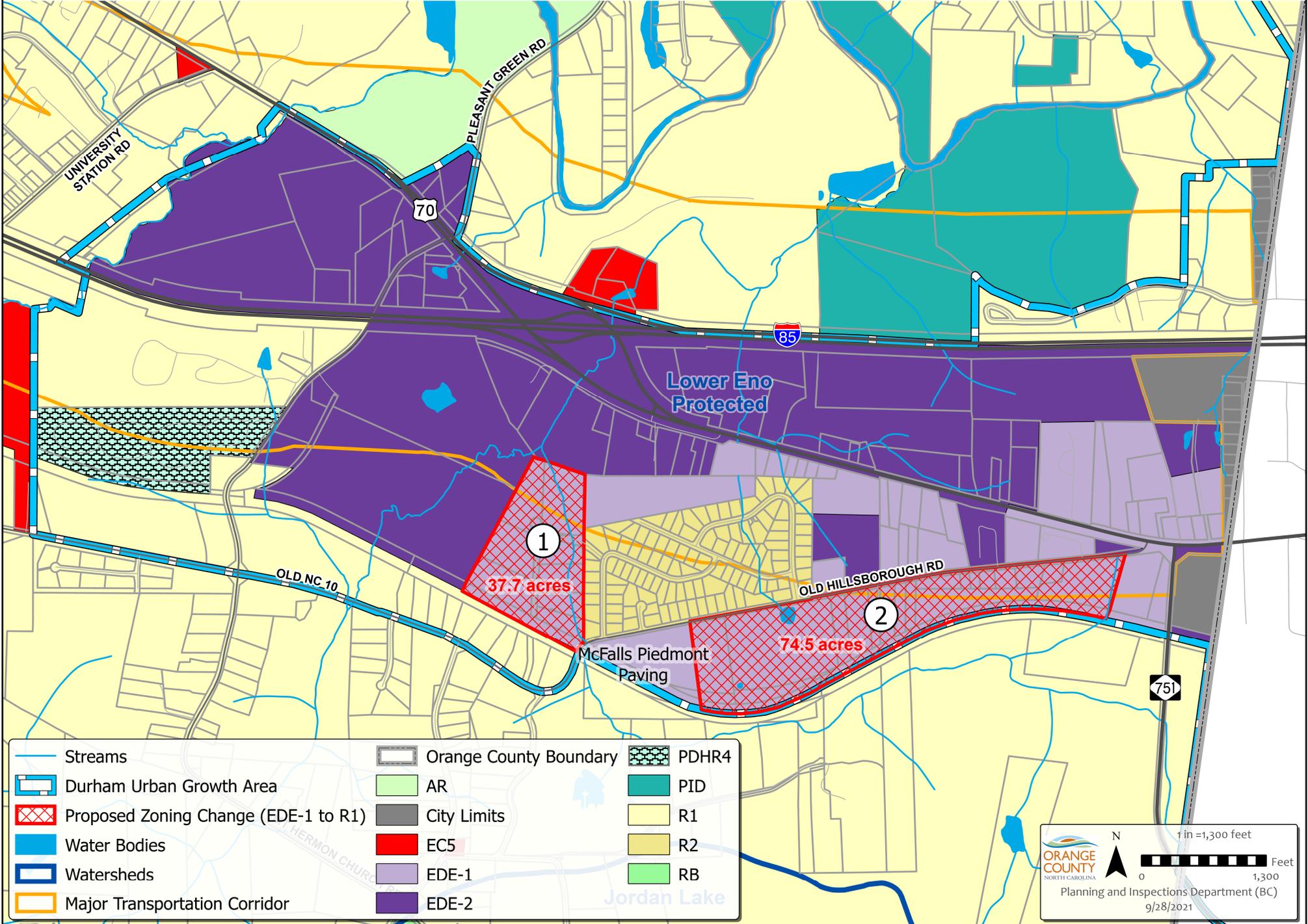
1 in = 1,300 feet

0 1,300 Feet

Planning and Inspections Department (BC)

9/28/2021

Eno EDD Area - Proposed Zoning Amendments



| | | | | | |
|--|--------------------------------------|--|------------------------|--|-------|
| | Streams | | Orange County Boundary | | PDHR4 |
| | Durham Urban Growth Area | | AR | | PID |
| | Proposed Zoning Change (EDE-1 to R1) | | City Limits | | R1 |
| | Water Bodies | | EC5 | | R2 |
| | Watersheds | | EDE-1 | | RB |
| | Major Transportation Corridor | | EDE-2 | | |

1 in = 1,300 feet

0 1,300 Feet

ORANGE COUNTY NORTH CAROLINA

Planning and Inspections Department (BC)

9/28/2021

PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278



November 29, 2021

Notice of Public Hearing
for Comprehensive Plan Future Land Use Map and Zoning Atlas
Amendments affecting the
Eno Economic Development District

Dear Property Owner:

This letter is to notify you of an upcoming public hearing pertaining to proposed amendments to the Orange County Comprehensive Plan (specifically the Future Land Use Map contained within the plan) and to the Orange County Zoning Atlas (Map).

You are receiving this notice because you own property located within 1,000-feet of parcels proposed for rezoning.

YOUR PROPERTY IS NOT PROPOSED FOR REZONING.

This notification is occurring in accordance with the provisions of Section 2.3 *Comprehensive Plan Amendments* and Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Orange County UDO.

The Board of County Commissioners initiated amendments to the above referenced maps at its September 14, 2021 meeting. Please see the enclosed maps for specific locations and information. In summary, 112.2 acres of land, comprised of 34 parcels, is proposed for land use classifications/zoning districts that allow for less intense development than could currently potentially be developed.

Information regarding these proposals is available on the Planning Department's website: <http://orangecountync.gov/1722/Current-Interest-Projects>

A **public hearing** on the proposed amendments will be held by the Board of County Commissioners on **Tuesday, December 14, 2021**. Due to current public health concerns, the public hearing will be held in a remote (on-line) setting. The public hearing agenda materials will be published no later than December 10, 2021 at: <https://www.orangecountync.gov/1707/BOCC-Agendas>

Information on how to sign up to speak at the public hearing will be available on the agenda when it is published. Additionally, written comments can be sent via email to the Board of County Commissioners at ocbocc@orangecountync.gov. Pursuant to State laws, written comments can be submitted until 24 hours prior to the scheduled time for the beginning of the public hearing.

The Orange County Planning Board, an advisory board, considered these amendments at its meeting on November 3, 2021 and has recommended approval of the amendments.

If reviewing the materials on the website does not answer your questions about the proposed amendments, you may call the Planning Department's main line at (919) 245-2575 and you will be directed to a staff member who can assist you.

Sincerely,

 for

Craig N. Benedict, AICP
Planning Director

Enclosures (maps)

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

Administration
 (919) 245-2575
 (919) 644-3002 (FAX)
 www.orangecountync.gov



131 W. Margaret Lane
 Suite 201
 P O Box 8181
 Hillsborough, NC 27278



CERTIFICATION OF MAILING

ZONING ATLAS AMENDMENT ORANGE COUNTY, NORTH CAROLINA

I, Perdita Holtz, Planning Systems Coordinator with Orange County, North Carolina, DO HEREBY CERTIFY that in accordance with the provisions of Sections 2.3.5 and 2.8.7 of the Orange County Unified Development Ordinance I have mailed, or have caused to be mailed, a Notice of the Planning Board Meeting to be held regarding proposed amendments to the Comprehensive Plan Future Land Use Map and to the Zoning Atlas within the existing Eno Economic Development District.

The owners were identified according to the Tax Records, as required by Section 2.8.7 of the Orange County Unified Development Ordinance.

The mailed notices specified the date, time, place and subject of the Planning Board Meeting as well as a public information meeting (which is not a meeting required by the UDO).

WITNESS my hand, this 11th day of October 2021.

Perdita Holtz, AICP
 Planning Systems Coordinator

PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278



October 11, 2021

**Notice of Public Information Meeting and
 Planning Board Meeting
 for Comprehensive Plan Future Land Use Map and Zoning Atlas
 Amendments affecting the
 Eno Economic Development District**

Dear Property Owner:

This letter is to notify you of upcoming meetings pertaining to proposed amendments to the Orange County Comprehensive Plan (specifically the Future Land Use Map contained within the plan) and to the Orange County Zoning Atlas (Map).

Your property, or portion thereof, lies within the geographic area proposed for amendments (see enclosed maps). Additionally, your property is likely located within 1,000-feet of other affected parcels. This notification is occurring in accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Orange County UDO.

The Board of County Commissioners initiated amendments to the above referenced maps at its September 14, 2021 meeting. Please see the enclosed maps for specific locations and information. In summary, 112.2 acres of land, comprised of 34 parcels, is proposed for land use classifications/zoning districts that allow for less intense development than could currently potentially be developed.

Planning Department staff will hold a remote (on-line) **public information meeting** via Zoom on **Tuesday, October 26, 2021 at 6:00 p.m.** to explain the proposal to interested persons and address any questions. Pre-registration is required to obtain a link to log-in to the meeting. The link to pre-register is:
https://orangecountync.zoom.us/webinar/register/WN_AwVzvrNpSF-fRvS8B2aVwg

A clickable registration link, along with additional information has been posted on the Planning Department's website: <http://orangecountync.gov/1722/Current-Interest-Projects>

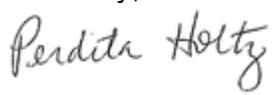
The **Planning Board**, an appointed volunteer advisory board to the BOCC, will consider its recommendation on the proposed amendments at its meeting on **Wednesday, November 3, 2021 at 7:00 p.m.** The Planning Board meeting is also expected to be held on-line and information on how to register for the meeting will be posted closer to the meeting date on the Planning Department's website listed above. Interested persons are invited to address the Planning Board with their comments regarding the proposed amendments.

A **formal public hearing** on the proposed amendments will be held by the Board of County Commissioners. At this time, the anticipated date for the public hearing is December 14, 2021. You will receive another written notice about the public hearing closer to the hearing date.

If you do not have internet access to attend the on-line public information meeting, you may call the Planning Department's main phone at (919) 245-2575 during normal business hours and you will be provided with a phone-in number to the meeting.

Questions regarding the proposed amendments can be directed to Perdita Holtz, Planner III, via email at pholtz@orangecountync.gov or via phone at (919) 245-2578.

Sincerely,

 for

Craig N. Benedict, AICP
Planning Director

Enclosures (maps)

PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

Administration
(919) 245-2575
(919) 644-3002 (FAX)
www.orangecountync.gov



131 W. Margaret Lane
Suite 201
P. O. Box 8181
Hillsborough, NC 27278



October 11, 2021

**Notice of Public Information Meeting and
 Planning Board Meeting
 for Comprehensive Plan Future Land Use Map and Zoning Atlas
 Amendments affecting the
 Eno Economic Development District**

Dear Property Owner:

This letter is to notify you of upcoming meetings pertaining to proposed amendments to the Orange County Comprehensive Plan (specifically the Future Land Use Map contained within the plan) and to the Orange County Zoning Atlas (Map).

You are receiving this notice because you own property located within 1,000-feet of parcels affected by the proposed amendments.

YOUR PROPERTY IS NOT AFFECTED BY THE PROPOSED AMENDMENTS.

This notification is occurring in accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Orange County UDO.

The Board of County Commissioners initiated amendments to the above referenced maps at its September 14, 2021 meeting. Please see the enclosed maps for specific locations and information. In summary, 112.2 acres of land, comprised of 34 parcels, is proposed for land use classifications/zoning districts that allow for less intense development than could currently potentially be developed.

Planning Department staff will hold a remote (on-line) **public information meeting** via Zoom on **Tuesday, October 26, 2021 at 6:00 p.m.** to explain the proposal to interested persons and address any questions. Pre-registration is required to obtain a link to log-in to the meeting. The link to pre-register is:

https://orangecountync.zoom.us/webinar/register/WN_AwVzvrNpSF-fRvS8B2aVwg

A clickable registration link, along with additional information has been posted on the Planning Department's website: <http://orangecountync.gov/1722/Current-Interest-Projects>

The **Planning Board**, an appointed volunteer advisory board to the BOCC, will consider its recommendation on the proposed amendments at its meeting on **Wednesday, November 3, 2021 at 7:00 p.m.** The Planning Board meeting is also expected to be held on-line and information on how to register for the meeting will be posted closer to the meeting date on the Planning Department's website listed above. Interested persons are invited to address the Planning Board with their comments regarding the proposed amendments.

A **formal public hearing** on the proposed amendments will be held by the Board of County Commissioners. At this time, the anticipated date for the public hearing is December 14, 2021. You will receive another written notice about the public hearing closer to the hearing date.

If you do not have internet access to attend the on-line public information meeting, you may call the Planning Department's main phone at (919) 245-2575 during normal business hours and you will be provided with a phone-in number to the meeting.

Questions regarding the proposed amendments can be directed to Perdita Holtz, Planner III, via email at pholtz@orangecountync.gov or via phone at (919) 245-2578.

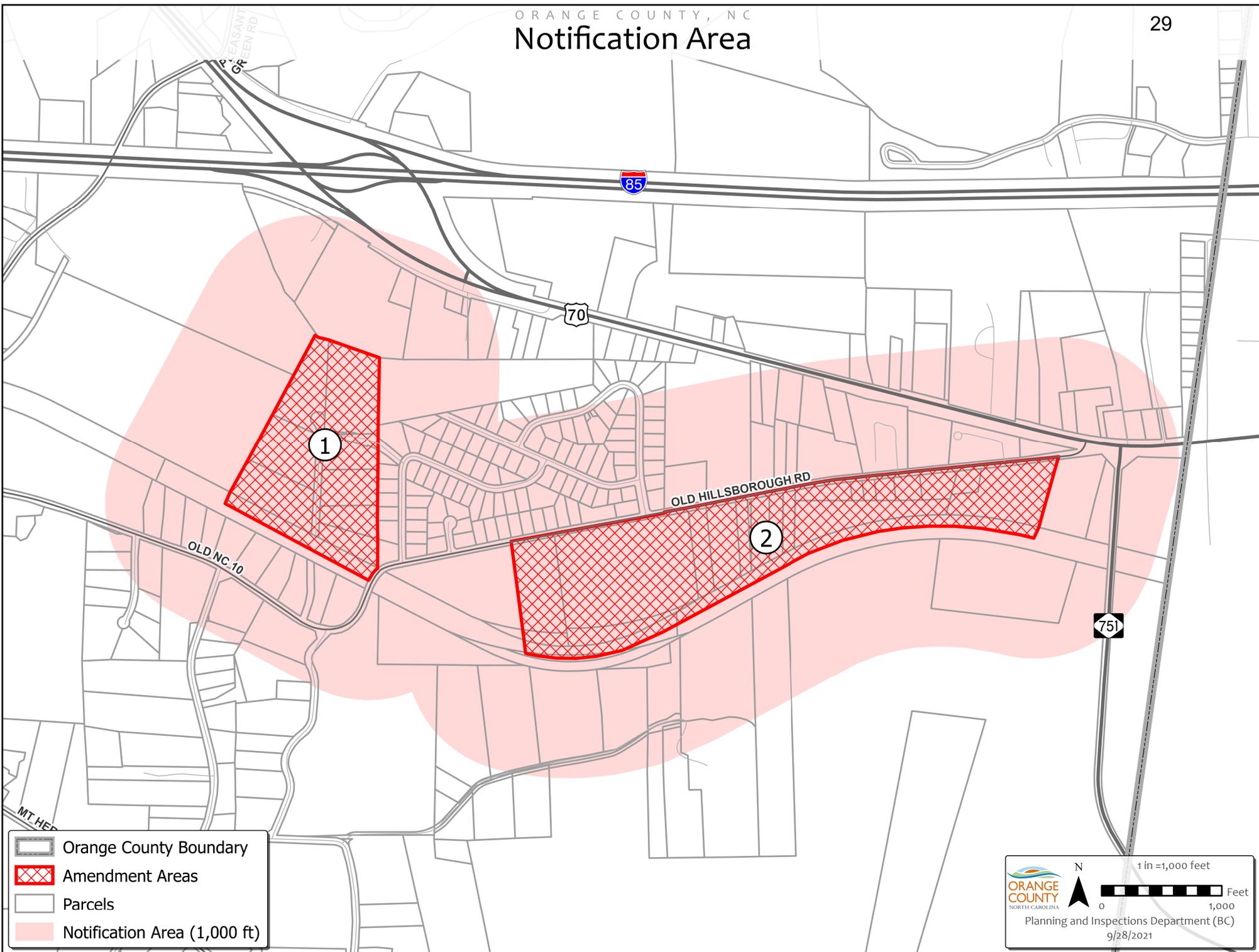
Sincerely,

 for

Craig N. Benedict, AICP
Planning Director

Enclosures (maps)

Notification Area



- Orange County Boundary
- Amendment Areas
- Parcels
- Notification Area (1,000 ft)

1 in = 1,000 feet

ORANGE COUNTY
NORTH CAROLINA

Planning and Inspections Department (BC)
9/28/2021

Affected Property Owners

| PIN | OWNER1_LAST | OWNER1_FIRST | OWNER2_LAST | OWNER2_FIRST | ADDRESS1 | ADDRESS2 | CITY | STATE | ZIPCODE | Location |
|------------|---------------------------------|------------------------|-------------|--------------|--------------------------|--------------------------|---------------|-------|-----------|--------------|
| 9892698891 | STANLEY | FRANCES A | | | P O BOX 2703 | | DURHAM | NC | 277152703 | Area 1 |
| 9892699764 | STANLEY | FRANCES ARLENE | | | P O BOX 2703 | | DURHAM | NC | 277152703 | Area 1 |
| 9892790923 | HAZZARD | WALTER W | <Null> | <Null> | 3328 GREENBRIAR DR | <Null> | DURHAM | NC | 277058196 | Area 1 |
| 9893602164 | ALLCOX | ANGELIA C ET AL | CARROLL | BETH W | 3329 GREENBRIAR DR | <Null> | DURHAM | NC | 277058197 | Area 1 |
| 9893603598 | BROWN | JOSEPH C | BROWN | MELISSA D | 3311 GREENBRIAR DR | <Null> | DURHAM | NC | 27705 | Area 1 |
| 9893608242 | HUDSON | DAVID W | | | 3320 GREENBRIAR DR EXT | | DURHAM | NC | 277058196 | Area 1 |
| 9893608595 | MIRANDA | MARCOS T | <Null> | <Null> | 3308 GREENBRIAR DR | <Null> | DURHAM | NC | 27705 | Area 1 |
| 9893608714 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Area 1 |
| 9893609689 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Area 1 |
| 9893615152 | DURHAM | BENJAMIN F III | <Null> | <Null> | 3301 GREENBRIAR DR | <Null> | DURHAM | NC | 277058197 | Area 1 |
| 9893619029 | MOORE | KATHRYN E | <Null> | <Null> | 2911 RIDGE RD | <Null> | DURHAM | NC | 27705 | Area 1 |
| 9892692908 | NORTH CAROLINA RAILROAD COMPANY | <Null> | <Null> | <Null> | 2809 HIGHWOODS BLVD | <Null> | RALEIGH | NC | 27604 | Area 1 and 2 |
| 0802090955 | GILL | GLENNA VERNELL BROWN | | | P O BOX 446 | | FUQUAY VARINA | NC | 275260446 | Area 2 |
| 0802092905 | COUCH | SHELIA | <Null> | <Null> | 200 GORDON THOMAS DR | <Null> | DURHAM | NC | 27705 | Area 2 |
| 0802093923 | WILLSON | DARCY M | <Null> | <Null> | 5315 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Area 2 |
| 0802094831 | CLAYTON | WILLIAM G | CLAYTON | RACHEL L | 5331 OLD HILLSBOROUGH RD | | DURHAM | NC | 27705 | Area 2 |
| 0802194933 | NORTH CAROLINA RAILROAD COMPANY | <Null> | <Null> | <Null> | 2809 HIGHWOODS BLVD | <Null> | RALEIGH | NC | 27604 | Area 2 |
| 0803001017 | COUCH | RENE ADAMS | COUCH | JANET ROGERS | 216 MAX DR | <Null> | DURHAM | NC | 27705 | Area 2 |
| 0803006178 | WATKINS | WILLIAM E | WATKINS | KATHLEEN R | 5215 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055911 | Area 2 |
| 0803100055 | ACKERT | DEBORAH PASCHALL HRS | <Null> | <Null> | 5145 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Area 2 |
| 0803100109 | COLLINS | GLEN G | | | 207 COBBLE PLACE | | DURHAM | NC | 277129284 | Area 2 |
| 0803101210 | AGUILAR | FRANCISCO A ETAL | ROMERO | LAURA M | 5205 OLD HILLSBOROUGH RD | <Null> | Durham | NC | 27705 | Area 2 |
| 0803102261 | MOISEN | MIGUEL A | AGUILAR | VERONICA M | 5201 OLD HILLSBOROUGH | <Null> | Durham | NC | 27705 | Area 2 |
| 0803104242 | ACKERT | TIFFANY BROOKE TRUSTEE | <Null> | <Null> | 5145 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Area 2 |
| 0803107244 | ACKERT | TIFFANY BROOKE TRUSTEE | <Null> | <Null> | 5145 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Area 2 |
| 0803109390 | FINCH | MICHAEL STUART | FINCH | SHARRON H | 5131 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055909 | Area 2 |
| 0803202254 | HICKS | ELIZABETH T | <Null> | <Null> | 5105 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Area 2 |
| 9892887847 | MCFALLS | RUFUS JR | <Null> | <Null> | 5539 OLD HILLSBOROUGH RD | C/O BYRD-SMITH MOORE LLP | DURHAM | NC | 27705 | Area 2 |
| 9892894495 | MCFALLS | RUFUS JR | | | 5539 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055917 | Area 2 |
| 9892895043 | NORTH CAROLINA RAILROAD | COMPANY | | | SUITE | 2809 HIGHWOODS BLVD | RALEIGH | NC | 27604 | Area 2 |
| 9892990026 | NORTH CAROLINA RAILROAD | CO | <Null> | <Null> | 2809 HIGHWOODS BLVD | <Null> | RALEIGH | NC | 27604 | Area 2 |
| 9892991685 | MATTHEWS | JEFFREY C | <Null> | <Null> | 5819 BRISBANE DR | <Null> | Chapel Hill | NC | 27514 | Area 2 |
| 9892996872 | HINSDALE | KEVIN L | HINSDALE | SONYA W | 5409 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055915 | Area 2 |
| 9892998862 | CLAYTON | WILLIAM G | CLAYTON | RACHEL | 5331 OLD HILLSBORO RD | | DURHAM | NC | 27705 | Area 2 |

Adjacent Property Owners (1,000-foot) Mailing List

| PIN | OWNER1_LAST | OWNER1_FIRST | OWNER2_LAST | OWNER2_FIRST | ADDRESS1 | ADDRESS2 | CITY | STATE | ZIPCODE | Location |
|------------|------------------------------------|--------------------|-------------|-----------------|-----------------------------|--|--------------------|-------|-----------|----------|
| 0802063100 | DUKE UNIVERSITY SCHOOL OF FORESTRY | <Null> | <Null> | <Null> | 324 BLACKWELL ST STE 850 | DUKE UNV CORPORATE TAX - WASHINGTON BLDG | DURHAM | NC | 27701 | Adjacent |
| 0802070832 | CUMMINGS | JONATHON | CUMMINGS | RACHEL | 226 MAX DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0802084503 | COUCH | RENE ADAMS | COUCH | JANET ROGERS | 216 MAX DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0802291574 | DUKE | UNIVERSITY | <Null> | <Null> | 324 BLACKWELL ST STE 850 | DUKE UNV CORPORATE TAX - WASHINGTON BLDG | DURHAM | NC | 27701 | Adjacent |
| 0802395614 | NORTH CAROLINA RAILROAD COMPANY | <Null> | <Null> | <Null> | 2809 HIGHWOODS BLVD | <Null> | RALEIGH | NC | 27604 | Adjacent |
| 0803002614 | HARPER | LUCINDA G | <Null> | <Null> | 5316 OLD HILLSBOROUGH RD | <Null> | Durham | NC | 27705 | Adjacent |
| 0803003547 | PASCHALL | RICHARD WAYNE | PASCHALL | JACQUELINE P | 5214 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055912 | Adjacent |
| 0803004553 | PASCHALL | RICHARD WAYNE | PASCHALL | JACQUELINE P | 5214 OLD HILLSBOROUGH ROAD | | DURHAM | NC | 277055912 | Adjacent |
| 0803004915 | FELDER | FRANK CHRISTIAN | | | 5223 STEPHENS LN | | DURHAM | NC | 277129751 | Adjacent |
| 0803006837 | BOGUE | SANDRA | | | P O BOX 2650 | | DURHAM | NC | 27715 | Adjacent |
| 0803007438 | PASCHALL | RICHARD WAYNE | PASCHALL | JACQUELINE P | 5214 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055912 | Adjacent |
| 0803008841 | NICHOLS | DEE ANN | <Null> | <Null> | 5701 US HWY 70 E | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803011051 | UNDERWOOD | JAMES L JR | <Null> | <Null> | 3505 NEW SHARON CHURCH RD | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 0803012065 | ALDERMAN | AARON | EMERY | KRISTIN | 5721 US 70 W | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803015420 | WOODY PROPERTIES LLC | <Null> | <Null> | <Null> | 55 KIMBERLY DR | <Null> | DURHAM | NC | 27707 | Adjacent |
| 0803101695 | FORMAX PROPERTIES LLC | <Null> | <Null> | <Null> | 6801 MT HERMAN CHURCH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803106517 | BATSON | KAREN J | BATSON | JAMES M III | PO BOX 2200 | <Null> | OXFORD | NC | 27565 | Adjacent |
| 0803110233 | BOSTER | EMIL | BOSTER | JUDY | 5900 US 70 E | | DURHAM | NC | 27705 | Adjacent |
| 0803113514 | EASTERLIN | DONALD J III | EASTERLIN | DONNA B | PO BOX 2641 | <Null> | DURHAM | NC | 27715 | Adjacent |
| 0803114362 | EASTERLIN | DONALD J III | EASTERLIN | DONNA B | PO BOX 2641 | <Null> | DURHAM | NC | 27715 | Adjacent |
| 0803117345 | EASTERLIN | DONALD J III | EASTERLIN | DONNA B | PO BOX 2641 | <Null> | DURHAM | NC | 27715 | Adjacent |
| 0803117779 | EASTERLIN | DONALD J III | EASTERLIN | DONNA B | PO BOX 2641 | <Null> | DURHAM | NC | 27715 | Adjacent |
| 0803200516 | MCM NC DUKE FOREST LLC | <Null> | <Null> | <Null> | 10455 RIVERSIDE DR | STE 210 | PALM BEACH GARDENS | FL | 33410 | Adjacent |
| 0803204516 | MCM NC DUKE FOREST LLC | <Null> | <Null> | <Null> | 10455 RIVERSIDE DR | STE 210 | PALM BEACH GARDENS | FL | 33410 | Adjacent |
| 0803207282 | OH | ARNOLD S | <Null> | <Null> | 6151 US 70E | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803207847 | MICOL HOLDINGS LLC | <Null> | <Null> | <Null> | 4926 HILLSBOROUGH RD | C/O MARK MICOL | DURHAM | NC | 27705 | Adjacent |
| 0803211773 | ENO PARK PROPERTIES LLC | <Null> | <Null> | <Null> | PO BOX 97021 | <Null> | RALEIGH | NC | 27624 | Adjacent |
| 0803213186 | WOMBLE | HELEN S | <Null> | <Null> | 7317 UNION GROVE CH RD | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 0803218180 | TUCKER | KIMBERLY M ET AL | MICOL | LYNN H | 4926 HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803300153 | DUKE | UNIVERSITY | <Null> | <Null> | 324 BLACKWELL ST | STE 850 | DURHAM | NC | 27701 | Adjacent |
| 0803300984 | MICOL | CHARLES A | <Null> | <Null> | 4920 HILLSBOROUGH RD | <Null> | DURHAM | NC | 277055906 | Adjacent |
| 0803301724 | MICOL HOLDINGS LLC | <Null> | <Null> | <Null> | 4926 HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803302774 | MICOL PROPERTIES LLC | <Null> | <Null> | <Null> | 4926 HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803304715 | STONE & CHURCH INVESTMENTS LLC | <Null> | <Null> | <Null> | PO BOX 2839 | <Null> | DURHAM | NC | 27715 | Adjacent |
| 0803305174 | L R JACOBS LLC | <Null> | <Null> | <Null> | 4915 HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 0803306705 | CD ENTERPRISES LLC | <Null> | <Null> | <Null> | 625 TERRY RD | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 0803310297 | MICOL | CHARLES A | <Null> | <Null> | 4920 HILLSBOROUGH RD | <Null> | DURHAM | NC | 277055906 | Adjacent |
| 0803312248 | MICOL | MARK S | MICOL | LYNN H | 4926 HILLSBOROUGH RD | | DURHAM | NC | 27705 | Adjacent |
| 803315304 | JOHN COATES PROPERTIES LLC | <Null> | <Null> | <Null> | 3430 COATES INDUSTRIAL BLVD | STE 100 | DURHAM | NC | 27705 | Adjacent |
| 9892498750 | MISTER | BRYAN W II | MISTER | NICOLE S | 3707 JACKSON RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892498847 | MISTER | BRYAN WESLEY | MISTER | SONYA R | 3701 JACKSON RD | | DURHAM | NC | 277058199 | Adjacent |
| 9892499502 | ENNIS | MARGARET C | ENNIS | DAVID N | 3713 JACKSON RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892587949 | TURNER | NORMAN LUKE | <Null> | <Null> | 3726 MURPHY SCHOOL RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892591360 | ASHE | CAROL L | <Null> | <Null> | 3720 JACKSON RD | <Null> | Durham | NC | 27705 | Adjacent |
| 9892591556 | WATKINS | JANET SHARPE | WILLIAMS | DENICE S | 4711 OLD NC 10 | | DURHAM | NC | 277058519 | Adjacent |
| 9892593907 | WATKINS | NORMAN MATTHEW | WATKINS | MICHELLE B | 4716 OLD #10 | | DURHAM | NC | 27705 | Adjacent |
| 9892594954 | PASCHALL | JACQUELINE PARRISH | | | 5214 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055912 | Adjacent |
| 9892595134 | TURNER | PHILLIP | <Null> | <Null> | 4050 CLUBRETH RD | <Null> | STEM | NC | 27581 | Adjacent |
| 9892595445 | SHARED VISIONS FOUNDATION INC | <Null> | <Null> | <Null> | 2115 HOMESTEAD RD | <Null> | CHAPEL HILL | NC | 27516 | Adjacent |
| 9892596049 | BELL | ELIZABETH J | <Null> | <Null> | 3720 MURPHY SCHOOL RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892596828 | PASCHALL | JACQUELINE PARRISH | | | 5214 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055912 | Adjacent |
| 9892599209 | DOVE NEST LLC | <Null> | <Null> | <Null> | 622 S POPLAR ST | <Null> | WINSTON SALEM | NC | 27101 | Adjacent |
| 9892599833 | TURNER | DAVID | TURNER | CAROLYN | 5012 DURHAM RD | | RALEIGH | NC | 27613 | Adjacent |
| 9892681788 | GAYLE | MARGIE D | <Null> | <Null> | 3815 DOVE CREEK RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892683664 | RIDDLE | ROBERT ANDREW II | | | 3901 DOVE CREEK RD | | DURHAM | NC | 27705 | Adjacent |
| 9892691494 | TOLNAY | JOSEPH D | TOLNAY | ALISHA D | 4816 OLD NC 10 | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892691711 | CARPENTER | DONALD | CARPENTER | CAROLYN | 4810 OLD NC 10 | | DURHAM | NC | 27705 | Adjacent |
| 9892693018 | DURHAM | SUBUD | <Null> | <Null> | 4010 COLE MILL RD | <Null> | DURHAM | NC | 27712 | Adjacent |
| 9892693355 | INVESTMENT STRATEGY | AND SERVICES LLC | GODINEZ | JUSTO J ESCOBAR | 2407 W CARVER ST | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892696461 | MASINGALE | HELEN | <Null> | <Null> | 4840 OLD NC 10 | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892698343 | PASCHALL | DEBORAH DAVIS | <Null> | <Null> | 3325 SEVEN SPRINGS RD | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9892780147 | ERWIN | CHARLES W | ERWIN | ANDREA C | 3900 DOVE CREEK RD | <Null> | DURHAM | NC | 277058162 | Adjacent |
| 9892785939 | MCFALLS | RUFUS JR | | | 5539 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055917 | Adjacent |
| 9892788331 | ELLIS | MARY ALICE | ELLIS | CLAIBORNE | 4817 STATFORD DR | <Null> | DURHAM | NC | 277052217 | Adjacent |
| 9892793773 | SIU | CHAU | ZHANG | XIN | 5606 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |

| | | | | | | | | | | |
|------------|---------------------------------|---------------------|----------|--------------|--------------------------|---------|--------------|----|-----------|----------|
| 9892793874 | HOPPER FAMILY VENTURES LLC | <Null> | <Null> | <Null> | PO BOX 607 | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9892793983 | HOWERTON | RICHARD A | HOWERTON | REBECCA FAYE | 935 SPRUCE PINE TRAIL | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892795738 | JOHNSON | DELORIS MAXINE | | | 5602 OLD HILLSBOROUGH RD | | DURHAM | NC | 27705 | Adjacent |
| 9892795910 | KING | WILLIAM W JR | KING | ANN | #8 WHISPERING PINES CIR | | DURHAM | NC | 277055929 | Adjacent |
| 9892797873 | SPEAR | ERIC W | SPEAR | ANNA-MARIE | 5548 OLD HILLSBOROUGH RD | | DURHAM | NC | 27705 | Adjacent |
| 9892797963 | HOPPER | JAMES E SR | <Null> | <Null> | P O BOX 607 | <Null> | HILLSBOROUGH | NC | 272780607 | Adjacent |
| 9892798476 | MCFALLS | RUFUS JR | | | 5539 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055917 | Adjacent |
| 9892798990 | HENNING | BRIAN A | <Null> | <Null> | 5546 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 277055918 | Adjacent |
| 9892799992 | SHELDON | BARBARA M | | | 5540 HILLSBOROUGH RD | | DURHAM | NC | 277055918 | Adjacent |
| 9892871980 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892872910 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892874625 | DEARING | CAROLYN M ETAL | MANGUM | BARRY C | 2109 PLEASANT GREEN RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892874913 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892874925 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892882337 | FARRELL | RONDA L | RANDALL | JOSHUA K | 5120 PASCHALL DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892885090 | DEPARTMENT OF | TRANSPORTATION | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892887411 | BROWNING | FRED T | BROWNING | SANDRA | 5132 PASCHALL DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892887820 | MCFALLS | RUFUS JR | | | 5539 OLD HILLSBOROUGH RD | | DURHAM | NC | 27705 | Adjacent |
| 9892889084 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892889086 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892890994 | WOODSIDE | BOBBY E | WOODSIDE | SUSAN W | 5534 OLD HILLSBOROUGH RD | | DURHAM | NC | 27705 | Adjacent |
| 9892891986 | RABALAIS | TIM P | RABALAIS | DIANE M | 5530 OLD HILLSBOROUGH RD | | DURHAM | NC | 277055918 | Adjacent |
| 9892892121 | NORTH CAROLINA RAILROAD | COMPANY | | | SUITE 100 | | RALEIGH | NC | 27604 | Adjacent |
| 9892892988 | HOPPER | JAMES E SR | <Null> | <Null> | P O BOX 607 | <Null> | HILLSBOROUGH | NC | 272780607 | Adjacent |
| 9892974761 | KING | LUCILLE C | <Null> | <Null> | 219 MAX DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892976667 | KING | MARK L | <Null> | <Null> | 223 GORDON THOMAS DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892982516 | OSTOYICH | MICHAEL M | OSTOYICH | VALENTINE A | 5216 PASCHALL DR | | DURHAM | NC | 277058536 | Adjacent |
| 9892983961 | MCFALLS | RUFUS JR | <Null> | <Null> | 5539 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9892984268 | DEPARTMENT OF | TRANSPORTATION | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892985390 | DEPARTMENT OF | TRANSPORTATION | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892985396 | DEPARTMENT OF | TRANSPORTATION | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9892989789 | CUMMINGS | JONATHON | CUMMINGS | RACHEL | 226 MAX DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893403551 | CRABTREE BANE LLC | <Null> | <Null> | <Null> | PO BOX 1532 | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9893404877 | NORTH CAROLINA RAILROAD COMPANY | <Null> | <Null> | <Null> | 2809 HIGHWOODS BLVD | <Null> | RALEIGH | NC | 27604 | Adjacent |
| 9893501063 | BROWNING | PHILLIP L | <Null> | <Null> | 151 STATION SPRING RD | <Null> | TAZEWELL | VA | 24651 | Adjacent |
| 9893511213 | CRABTREE BANE LLC | <Null> | <Null> | <Null> | PO BOX 1532 | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9893524275 | CRABTREE RHODES LLC | <Null> | <Null> | <Null> | PO BOX 1532 | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9893619828 | NAZO | FAWAZ PHILIP | NAZO | EMAN | 5211 OLD AUTUMN WOOD DR | | DURHAM | NC | 27705 | Adjacent |
| 9893623287 | SKG PROPERTIES LLC & S & S | GILLILAND FOUND INC | | | 5313 DONA RD | | JULIAN | NC | 27283 | Adjacent |
| 9893624634 | SKG PROPERTIES LLC & S & S | GILLILAND FOUND INC | | | 5313 DONA RD | | JULIAN | NC | 27283 | Adjacent |
| 9893700007 | CHESSON | WESLEY M III | CHESSON | JANET | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893700118 | DANIELS VENTURES LLC | <Null> | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893700229 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893700421 | CHESSON | WESLEY M III | CHESSON | JANET | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893700687 | BELCH | JUDY S | BELCH | TONY JR | 924 SPRUCE PINE TR | <Null> | DURHAM | NC | 277055928 | Adjacent |
| 9893702502 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893702538 | DEPARTMENT OF TRANSPORTATION | <Null> | <Null> | <Null> | 1546 MAIL SERVICE CTR | <Null> | RALEIGH | NC | 27611 | Adjacent |
| 9893702648 | HOWE | SARA | <Null> | <Null> | 922 SPRUCE PINE TRL | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893703073 | MATIAS | DIANA | MARTINEZ | ALBERTO R | 933 SPRUCE PINE TRL | <Null> | Durham | NC | 27705 | Adjacent |
| 9893703193 | HOPPER FAMILY VENTURES LLC | <Null> | <Null> | <Null> | PO BOX 607 | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9893703272 | MIRANDA | BARTIMEO O | MENDEZ | KARLA R | 1306 CURTIS BAND RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893703339 | FANNIN | TRAVIS | FANNIN | SYDNEY | 927 SPRUCE PINE TRL | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893703663 | BRATCHER | LINDA D EVANS | BRATCHER | RONALD L | 119 W WAYCLIFF ROAD | <Null> | HENDERSON | NC | 27537 | Adjacent |
| 9893703811 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893704315 | JOHNSON | ISAAC GREGORY | JOHNSON | SHACONDRA | 6207 N ROXBORO RD | <Null> | DURHAM | NC | 27712 | Adjacent |
| 9893704381 | ROCK | JUSTIN DAVIS | ROCK | PAULA MARIE | 923 SPRUCE PINE TR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893704588 | TOLLISON | CRAIG N | <Null> | <Null> | 918 SPRUCE PINE TR | <Null> | DURHAM | NC | 277055928 | Adjacent |
| 9893704736 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893705048 | GOMEZ | SAMUEL G | <Null> | <Null> | 6 WHISPERING PINES CIR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893705268 | DAMERON | ROBERT S JR | <Null> | <Null> | 921 SPRUCE PINE TRL | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893705584 | CARTER | ZAINYA | <Null> | <Null> | 916 SPRUCE PINE TRL | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893705742 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893706244 | MILLS | ERNEST CHARLES SR | MILLS | GAIL G | 914 SPRUCE PINE TR | | DURHAM | NC | 277055928 | Adjacent |
| 9893706488 | MILLS | ERNIE C | MILLS | GAIL D | 914 SPRUCE PINE TRL | | DURHAM | NC | 277055928 | Adjacent |
| 9893706647 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893707016 | RICH | FREDERIQUE O | | | 105 HARBOUR TOWN CT | | MEBANE | NC | 273027125 | Adjacent |

| | | | | | | | | | | |
|------------|----------------------------|-----------------|-----------------|-----------------------|--------------------------|---------|------------------|----|-----------|----------|
| 9893707198 | DANIELS | DWYNN E | | | 915 SPRUCE PINE TR | | DURHAM | NC | 27705 | Adjacent |
| 9893707211 | MEDLIN | CHERYL | <Null> | <Null> | 917 SPRUCE PINE TRL | <Null> | DURHAM | NC | 277055927 | Adjacent |
| 9893707483 | PARKER | PEGGY | | | 912 SPRUCE PINE TRL | | DURHAM | NC | 277055928 | Adjacent |
| 9893707652 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893707829 | POWELL | LYDIA M | | | 5716 PONDEROSA DR | | DURHAM | NC | 27705 | Adjacent |
| 9893708160 | ESCOBEDO | LEAL AGUSTIN | ESCOBEDO | SONIA RAMIREZ-SANCHEZ | 913 SPRUCE PINE TRL | | DURHAM | NC | 277055927 | Adjacent |
| 9893708389 | JOUBERT | REGENT Y | | | 910 SPRUCE PINE TR | | DURHAM | NC | 27705 | Adjacent |
| 9893708557 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893708847 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893709160 | HILTBOLD | WILLIAM ARTHUR | THARP-HILTBOLD | BILLYE ANNE | 911 SPRUCE PINE TRL | | DURHAM | NC | 27705 | Adjacent |
| 9893709563 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893709834 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893712951 | RLBRLG LLC | <Null> | <Null> | <Null> | 8086 WATERFORD DR | <Null> | STANLEY | NC | 28164 | Adjacent |
| 9893716613 | SOHAM OF DURHAM II INC | <Null> | <Null> | <Null> | 3220 KUBER BLVD | <Null> | Durham | NC | 27705 | Adjacent |
| 9893717873 | SIMPSON | MARY K | <Null> | <Null> | 3210 BAY DR | <Null> | KILL DEVIL HILLS | NC | 27948 | Adjacent |
| 9893718161 | ZOUMBOS | CONSTANTINO HRS | ANAGNOSTOPOULOS | ATHANASIOS | 4321 MYERS PARK DR | <Null> | DURHAM | NC | 277051663 | Adjacent |
| 9893718684 | ZOUMBOS | CONSTANTINO HRS | ANAGNOSTOPOULOS | ATHANASIOS | 4321 MYERS PARK DR | <Null> | DURHAM | NC | 277051663 | Adjacent |
| 9893718779 | GOWIN | KANOODA S | GOWIN | VANDANA | 400 HEPOWIL TRACE | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9893800151 | HALEY | PAMELA ETAL | MATLOCK | CONNIE | 909 SPRUCE PINE TRL | <Null> | DURHAM | NC | 277055927 | Adjacent |
| 9893800468 | DELUNA | CROSS A | <Null> | <Null> | 5605 PONDEROSA DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893800735 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893800876 | CABALLERO | HECTOR | CABALLERO | APRIL | 330 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893801153 | ANDREWS | GINA LISA | | | 907 SPRUCE PINE TR | | DURHAM | NC | 27705 | Adjacent |
| 9893801306 | HEATER UTILITIES | INC | | | 202 MACKENAN CT | | CARY | NC | 275116447 | Adjacent |
| 9893801473 | ELLIXSON | EUGENE T | ELLIXSON | PATRICIA | 600 DOC NICHOLS RD | <Null> | DURHAM | NC | 27703 | Adjacent |
| 9893801992 | CABALLERO | HECTOR F | CABALLERO | APRIL M | 330 HEMLOCK DR | | DURHAM | NC | 27705 | Adjacent |
| 9893802155 | BROWN | BEVERLY S | TRIVETTE | SHARON LYNN | 905 SPRUCE PINE TRL | | DURHAM | NC | 27705 | Adjacent |
| 9893802646 | BOSWELL | SYLVIA D | | | 323 HEMLOCK DR | | DURHAM | NC | 277055934 | Adjacent |
| 9893803070 | FRANK | MICHAEL E | <Null> | <Null> | 5526 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893803290 | TRIVETTE | SHARON LYNN | BROWN | BEVERLY S | 905 SPRUCE PINE TR | | DURHAM | NC | 27705 | Adjacent |
| 9893803661 | SECURE INC | <Null> | <Null> | <Null> | 119 N SALISBURY ST | <Null> | RALEIGH | NC | 27603 | Adjacent |
| 9893803793 | BOSWELL | SYLVIA D | | | 323 HEMLOCK AVE | | DURHAM | NC | 277055934 | Adjacent |
| 9893803906 | RAMIREZ | EVARISTA T | ZAGADA MORA | NATHANAEL | 326 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893804073 | BEST | BRITTANY RENEE | <Null> | <Null> | 5522 OLD HILLSBOROUGH RD | <Null> | Durham | NC | 27705 | Adjacent |
| 9893804345 | ELLIS | CAROLYN | ELLIS | WANDA | 5531 PONDEROSA DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893804588 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893804918 | BRUNSON | ALICE J | | | 103 MIDDLEBURY CT | | DURHAM | NC | 277138537 | Adjacent |
| 9893805077 | HOPPER FAMILY VENTURES LLC | <Null> | <Null> | <Null> | PO BOX 607 | <Null> | HILLSBOROUGH | NC | 27278 | Adjacent |
| 9893805331 | ORR | RINNIE O | | | 5527 PONDEROSA RD | | DURHAM | NC | 27705 | Adjacent |
| 9893805573 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893805724 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893806076 | RIGSBEE | GERALD L HRS | <Null> | <Null> | 3609 RIVERMONT DR | <Null> | DURHAM | NC | 277122920 | Adjacent |
| 9893806227 | AUSTIN | THOMAS EARLE | | | 5523 PONDEROSA DR | | DURHAM | NC | 277055923 | Adjacent |
| 9893806572 | FRYE | SHARON M | <Null> | <Null> | 5514 PONDEROSA DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893806742 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893806885 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893807204 | MOORE | GROVER JR | MOORE | MARVA W | 5519 PONDEROSA DR | | DURHAM | NC | 277055923 | Adjacent |
| 9893807291 | JONES | MARTIE L | <Null> | <Null> | 5515 PONDEROSA DR | <Null> | Durham | NC | 27705 | Adjacent |
| 9893807469 | WALL | KATHRYN L | <Null> | <Null> | 5506 PONDEROSA DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893807766 | HEATER UTILITIES | INC | | | 202 MACKENAN CT | | CARY | NC | 275116447 | Adjacent |
| 9893807847 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893808086 | HEATER UTILITIES | INC | | | 202 MACKENAN CT | | CARY | NC | 275116447 | Adjacent |
| 9893808198 | WOOTTON | LANCE A ETAL | WOOTTON | VIRGINIA M | 3200 CROASDALE DR | STE 504 | DURHAM | NC | 27705 | Adjacent |
| 9893808442 | WALL | KATHRYN L | <Null> | <Null> | 5506 PONDEROSA DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893808846 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893809399 | ASHLEY | KENNETH D | ASHLEY | DEBBIE M | 5502 PONDEROSA DR | | DURHAM | NC | 277055924 | Adjacent |
| 9893809478 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893809650 | SIBLEY | LISA M | <Null> | <Null> | 207 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893809760 | CASH | WILLIAM A | <Null> | <Null> | 209 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893809890 | CASH | WILLIAM A | <Null> | <Null> | 209 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893809927 | DANIELS VENTURES LLC | <Null> | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893810547 | MSAT LLC | <Null> | <Null> | <Null> | PO BOX 3212 | <Null> | DURHAM | NC | 27715 | Adjacent |
| 9893815030 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 102 | RALEIGH | NC | 27608 | Adjacent |
| 9893816073 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893900119 | JONES | JOHNNY K | JONES | REGINA | 5507 PONDEROSA DR | | DURHAM | NC | 27705 | Adjacent |
| 9893900936 | DANIELS VENTURES LLC | <Null> | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |

| | | | | | | | | | | |
|------------|-----------------|----------------|----------------|-----------|--------------------------|---------|---------|----|-----------|----------|
| 9893901121 | GRIMES | PATRICIA H HRS | <Null> | <Null> | 5504 OLD HILLSBOROUGH RD | <Null> | DURHAM | NC | 277055918 | Adjacent |
| 9893901232 | FISHER | FRANK | FISHER | STEPHANIE | 5503 PONDEROSA DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893902164 | HOWELL | CURTIS RAY | HOWELL | REBECCA | 102 HEMLOCK DR | | DURHAM | NC | 277055901 | Adjacent |
| 9893902340 | OLIVERA FUENTES | ALVARO | LOPEZ GONZALEZ | TOMASA | 104 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893902442 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893902544 | LEWIS | LAWRENCE L JR | <Null> | <Null> | 204 HEMLOCK DR | <Null> | DURHAM | NC | 277055903 | Adjacent |
| 9893902655 | RODRIGUEZ | PEDRO | <Null> | <Null> | 208 HEMLOCK DR | <Null> | DURHAM | NC | 27705 | Adjacent |
| 9893902746 | AUTRY | BRYAN | AUTRY | CRYSTAL | 212 HEMLOCK DR | | DURHAM | NC | 27705 | Adjacent |
| 9893902848 | CHESSON | WESLEY M. III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893902959 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |
| 9893908895 | NICHOLS | DEE ANN | <Null> | <Null> | 5701 US 70 E | <Null> | DURHAM | NC | 277059043 | Adjacent |
| 9893909606 | SIMCHOCK | ROBERT P | SIMCHOCK | JENNY M | 5404 OLD HILLSBOROUGH RD | | DURHAM | NC | 27705 | Adjacent |
| 9893912145 | CHESSON | WESLEY M III | <Null> | <Null> | 2626 GLENWOOD AVE | STE 120 | RALEIGH | NC | 27608 | Adjacent |

NOTICE OF PUBLIC HEARING

**Proposed Amendments to the Orange County
Comprehensive Plan Future Land Use Map (FLUM)
and to the Zoning Atlas (Map)**

December 14, 2021

7:00 p.m.

On-line (Zoom)

Information:

<http://orangecountync.gov/1722/Current-Interest-Projects>

**ORANGE COUNTY PLANNING DEPARTMENT:
(919) 245-2575**

NOTICE OF PUBLIC INFORMATION MEETING AND PLANNING BOARD MEETING

Proposed Amendments to the Orange County Comprehensive Plan Future Land Use Map (FLUM) and to the Zoning Atlas (Map)

Public Information Meeting

October 26, 2021 6:00 p.m.

Planning Board Meeting

November 3, 2021 7:00 p.m.

Both meetings on-line (Zoom)

Information and Registration:

<http://orangecountync.gov/1722/Current-Interest-Projects>

**ORANGE COUNTY PLANNING DEPARTMENT:
(919) 245-2575**

**NOTICE OF PUBLIC HEARING
ORANGE COUNTY BOARD OF COMMISSIONERS**

The Orange County Board of Commissioners will hold a public hearing on Tuesday, December 14, 2021 at 7:00 PM for the purpose of giving all interested residents an opportunity to speak for or against the items below. Due to current public health concerns, the hearing will be held on-line and pre-registration is required.

The meeting will be live streamed at the following web address for those who wish to only view the meeting: www.orangecountync.gov/967/Meeting-Videos

To register to speak at the public hearing, please send an email to ocpubliccomment@orangecountync.gov no later than 3:00 PM on the day of the hearing and indicate you wish to speak during the hearing.

When submitting the request to speak, include the following:

- The date of the meeting
- The number and title of the agenda item (from the agenda that will be published on December 10) you wish to speak on
- Your name, address, email and phone number
- The phone number must be the number you plan to call in from if participating by phone

After registering to speak, an email that contains instructions and a link to sign up to access the hearing will be sent to the email address used to register.

If you do not have access to an internet-enabled computer/device and would like to phone in to access the hearing, please call the office of the Clerk to the Board after December 10, 2021 at 919-245-2130 and a staff member will provide you with the call-in number.

Public Hearing Items:

1. **Amendments Orange County Comprehensive Plan Future Land Use Map (FLUM) and to the Zoning Atlas:** In accordance with the provisions of Section 2.3 *Comprehensive Plan Amendments* and Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the Unified Development Ordinance, the Board of County Commissioners has initiated amendments to the Orange County Comprehensive Plan Future Land Use Map (FLUM) and Zoning Atlas in the Eno Economic Development District. The Eno Economic Development District is located in the eastern portion of Orange County in the vicinity of Interstate 85, Highway 70, and Old NC Highway 10.

The proposed amendments affect 112.2 acres comprised of 34 parcels. The proposal is to change the current Future Land Use classification FROM Economic Development Activity Node TO 10-Year Transition Activity Node. The proposed zoning atlas amendment is FROM EDE-1 (Economic Development Eno Lower

Intensity) TO R-1 (Rural Residential). The proposal would contract the existing boundaries of the Eno Economic Development District. The affected parcels are as follows:

| Parcel Identification Number (PIN) | Owner on Record (Last/First Name) | Parcel Identification Number (PIN) | Owner on Record (Last/First Name) |
|------------------------------------|--|------------------------------------|--|
| 9892698891 | STANLEY FRANCES A | 0803001017 | COUCH RENE ADAMS COUCH JANET ROGERS |
| 9892699764 | STANLEY ARLENE FRANCES | 0803006178 | WATKINS WILLIAM E WATKINS KATHLEEN R |
| 9892790923 | HAZZARD WALTER W | 0803100055 | ACKERT DEBORAH PASCHALL HRS |
| 9893602164 | ALLCOX ANGELIA C ET AL CARROLL BETH W | 0803100109 | COLLINS GLEN G |
| 9893603598 | BROWN JOSEPH C BROWN MELISSA D | 0803101210 | AGUILAR FRANCISCO A ETAL ROMERO LAURA M |
| 9893608242 | HUDSON DAVID W | 0803102261 | MOISEN MIGUEL A AGUILAR VERONICA M |
| 9893608595 | MIRANDA MARCOS T | 0803104242 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893608714 | DEPARTMENT OF TRANSPORTATION | 0803107244 | ACKERT TIFFANY BROOKE TRUSTEE |
| 9893609689 | DEPARTMENT OF TRANSPORTATION | 0803109390 | FINCH MICHAEL STUART FINCH SHARRON H |
| 9893615152 | DURHAM BENJAMIN F III | 0803202254 | HICKS ELIZABETH T |
| 9893619029 | MOORE KATHRYN E | 9892887847 | MCFALLS RUFUS JR |
| 9892692908 | NORTH CAROLINA RAILROAD COMPANY | 9892894495 | MCFALLS RUFUS JR |
| 0802090955 | GILL GLENNA VERNELL BROWN | 9892895043 | NORTH CAROLINA RAILROAD COMPANY |
| 0802092905 | COUCH SHELIA | 9892990026 | NORTH CAROLINA RAILROADCO |
| 0802093923 | WILLSON DARCY M | 9892991685 | MATTHEWS JEFFREY C |
| 0802094831 | CLAYTON WILLIAM G CLAYTON RACHEL L | 9892996872 | HINSDALE KEVIN L HINSDALE SONYA W |
| 0802194933 | NORTH CAROLINA RAILROAD COMPANY | 9892998862 | CLAYTON WILLIAM G CLAYTON RACHEL |

Maps of the area and affected parcels are available for viewing at <https://www.orangecountync.gov/1722/Current-Interest-Projects>

Purpose: To review the item and receive public comment on the proposed amendments.

The Orange County Planning Board reviewed the amendment package at its November 3, 2021 regular meeting and voted unanimously to recommend approval of the amendments. Agenda materials for this meeting can be viewed at: <http://orangecountync.gov/AgendaCenter/Planning-Board-26>

- 2. Unified Development Ordinance Text Amendments:** In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance*

Amendments of the Unified Development Ordinance, the Planning Director has initiated amendments to the Unified Development Ordinance (UDO) to conform the County's UDO to North Carolina Session Law 2021-138 which decriminalizes certain types of ordinances, including planning and development regulations.

The following existing Sections of the UDO are proposed for text amendments:

- 9.5.6 Final Notice of Violation and/or Correction Order
- 9.6.5 Criminal Penalties
- 9.6.7 Civil Penalty

Additionally, renumbering of sections in Article 9 is proposed.

Purpose: To review the item and receive public comment on the proposed amendments.

The Orange County Planning Board will review the amendment package at its December 1, 2021 regular meeting. The amendments were introduced to the Planning Board on November 3, 2021 as an "Ordinance Review Committee" item and the agenda materials for both Planning Board meetings can be viewed at: <http://orangecountync.gov/AgendaCenter/Planning-Board-26> Staff will report the Planning Board's recommendation at the December 14, 2021 public hearing.

Substantial changes in items presented at the public hearing may be made following the receipt of comments made at the public hearing. In accordance with Session Law 2021-35 (House Bill 812), which pertains to written comments for public hearings held in remote meetings during declared emergencies, written comments on the subject of the public hearing can be submitted by interested persons until 24 hours prior to the scheduled time for the beginning of the public hearing. Written comments to the Board of County Commissioners can be sent via e-mail to ocbocc@orangecountync.gov.

The full text of the public hearing items may be obtained no later than December 10, 2021 on the County's website: <https://www.orangecountync.gov/1707/BOCC-Agendas>. Information is also available from the Orange County Planning Department (contact information below). As stated above, the materials reviewed by the Planning Board are currently available at <http://orangecountync.gov/AgendaCenter/Planning-Board-26>

Questions regarding the proposals may be directed to the Orange County Planning Department via phone at (919) 245-2575 during normal office hours (8:00 a.m. to 5:00 p.m., Monday through Friday). You may also e-mail questions to planningdept@orangecountync.gov. Written comments to the Board of County Commissioners can be sent via e-mail to ocbocc@orangecountync.gov. Written comments can also be dropped off at the Planning Department offices at 131 W. Margaret Lane, 2nd floor, Hillsborough, NC during normal office hours or mailed to the Planning Department at P.O. Box 8181, Hillsborough, NC 27278. As stated above, written comments must be submitted at least 24 hours prior to the beginning of the public hearing.

PUBLISH: The Herald Sun
December 1, 2021
December 8, 2021

News of Orange
December 1, 2021
December 8, 2021

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No.** 6-a

SUBJECT: Fiscal Year 2021-22 American Rescue Plan Act Allocations Round 2

DEPARTMENT: Finance and Administrative Services

ATTACHMENT(S):

Attachment 1. ARPA Allocations
Attachment 2. Project Summaries

INFORMATION CONTACT:

Travis Myren, (919) 245-2308
Gary Donaldson, (919) 245-2453
Rebecca Crawford, (919) 245-2152

PURPOSE: To approve the next allocation of American Rescue Plan Act funding to projects, also known as Coronavirus State and Local Fiscal Recovery Funds (CSLRF).

BACKGROUND: The Federal American Rescue Plan Act (ARPA) provides direct allocations to local governments. Orange County is designated to receive approximately \$28.8 million. The first draw down of approximately \$14.4 million was approved by the Board of Commissioners on a budget amendment on June 1, 2021. The second draw down will occur before the end of the current fiscal year. ARPA funds must be obligated by December 31, 2024 and must be fully expended by December 31, 2026.

The ARPA funds are intended to broadly address the negative impacts of the COVID-19 pandemic on individuals, government agencies, organizations, and small businesses. The Treasury Department has issued interim guidance on the use of ARPA funds for local governments. This guidance establishes five broad categories for potential investments:

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

County departments were once again asked to submit proposals consistent with the interim guidance and the goals established by the Board of Commissioners in prior funding allocations. County departments submitted requests totaling over \$6.4 million. \$3,345,793 is recommended

for funding in this round based on project eligibility, ability of the project administration to meet required reporting guidelines, and the positive impact on long term recovery in our community.

Those projects recommended for funding in this allocation are listed below by department. Project descriptions may be found as an attachment to this item.

| Department | Program Name | FY 21-22 Request Round 2 |
|--|---|--------------------------|
| Asset Management Services & Sheriff | Install Point Ionization equipment in new detention center | \$68,800 |
| Economic Development | Tourism and Hospitality Recovery | \$150,000 |
| Emergency Services | County First Responder Behavioral Health Program | \$45,000 |
| Emergency Services | Powered Air Purifying Respirators (PAPRS) | \$124,000 |
| Finance | Contract ARPA Coordinator | \$66,886 |
| Housing | Direct EHA Program Expenditures | \$2,700,000 |
| Housing | Housing Helpline Coordinated Entry Specialist | \$32,202 |
| Housing | Landlord Incentive Program | \$55,000 |
| Information Technologies, Tax, & Housing | Software to administer the Long Time Homeowner Assistance Program | \$8,905 |
| Social Services | Food and costs to support distribution and storage | \$60,000 |
| Social Services | Stabilization Program for Former Foster Youth | \$10,000 |
| Social Services | Support for Low Income Families | \$25,000 |
| Grand Total | | \$3,345,793 |

ARPA Funding Status Update as of December 14, 2021:

- Total Award: \$28,839,722
- Total Approved as of June 15, 2021: \$8,283,869*
- Total Remaining to be Distributed as of June 15, 2021: \$20,555,853
- Total FY 2021-22 Round 2 for BOCC Consideration: \$3,345,793
- Total Remaining to be Distributed if Round 2 Approved: \$17,210,060

*\$4,182,392 in previously approved projects were replaced with general fund support after new guidance from the Treasury Department deemed them ineligible or that reporting requirements would cause an undue burden on our local partners. These projects include Outside Agency funding, Visitor's Bureau revenue replacement, Sportsplex revenue replacement, and some Information Technologies projects.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.
- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**
The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

FINANCIAL IMPACT: There is no financial impact associated with this item. ARPA funding has already been approved and appropriated by the BOCC.

ENVIRONMENTAL IMPACT: There are no Orange County Environmental Responsibility Goal impacts associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve the allocation of ARPA funding for the proposed projects.

| Department | Program Name | FY 20-21 Approved | FY 21-22 Round 1 Approved | Ineligible or Replaced with General Funds | Final FY 21-22 Round 1 Approved | FY 21-22 Round 2 Recommended | Reason for Replacement |
|--|---|-------------------|---------------------------|---|---------------------------------|------------------------------|---|
| Aging | Senior Lunch Program | | \$ 119,229.00 | | \$ 119,229.00 | | |
| Asset Management Services | Replacement Temporary Facility Modifications | | \$ 51,136.00 | | \$ 51,136.00 | | |
| Asset Management Services | Point Ionization - Detention Center | | | | | \$ 68,800.00 | |
| Child Support Services | Teleworking Telephone Expenses | | \$ 7,010.00 | \$ 7,010.00 | \$ - | | Remote Work costs funded through operating budget |
| County Manager | Restart the Arts Grants | | \$ 100,000.00 | | \$ 100,000.00 | | |
| County Manager | Arts Commission Aid to Impacted Industries | | \$ 16,000.00 | | \$ 16,000.00 | | |
| Criminal Justice Resource Department | ARPA Grant Compliance Position | | \$ 38,751.00 | | \$ 38,751.00 | | |
| Criminal Justice Resource Department | National Deflection Training Conference | 11,200 | \$ - | \$ 11,200.00 | \$ - | | Ineligible |
| Criminal Justice Resource Department/Housing | Street Outreach, Harm Reduction, and Deflection (SOHRAD) | | \$ 160,000.00 | | \$ 160,000.00 | | |
| Department of Social Services | Emergency Assistance for IFC and OCIM | | \$ 186,000.00 | \$ 186,000.00 | \$ - | | Too high of administrative burden on non-profits |
| Department of Social Services | Increase in Youth Enhancement Fund | | \$ 25,000.00 | | \$ 25,000.00 | | |
| Department of Social Services | Countywide Food Distribution and Storage | | | | | \$ 60,000.00 | |
| Department of Social Services | Stabilization for Former Foster Youth | | | | | \$ 10,000.00 | |
| Department of Social Services | Support for Low Income Families | | | | | \$ 25,000.00 | |
| Durham Tech | Durham Tech Community College for Small Business Center | | \$ 70,000.00 | | \$ 70,000.00 | | |
| Economic Development/Visitors Bureau | Visitors Bureau Revenue Replacement | 560,000 | \$ - | \$ 560,000.00 | \$ - | | Revenue replacement deemed ineligible |
| Economic Development/Visitors Bureau | Tourism and Hospitality Recovery | | \$ 150,000.00 | | \$ 150,000.00 | \$ 150,000.00 | |
| Emergency Services | First Responder Behavioral Health Program | | | | | \$ 45,000.00 | |
| Emergency Services | Powered Air Purifying Respirators (PAPRS) | | | | | \$ 124,000.00 | |
| Finance | American Rescue Plan Act (ARPA) Coordinator | | | | | \$ 66,886.00 | |
| Housing | EHA Temporary Staff, and Coordinator | 325,000 | \$ 1,601,357.00 | | \$ 1,926,357.00 | \$ 2,700,000.00 | |
| Housing | Affordable Housing - Home Repairs | | \$ 120,000.00 | | \$ 120,000.00 | | |
| Housing | Housing Locator | | \$ 28,810.00 | | \$ 28,810.00 | | |
| Housing | Housing Helpline Coordinated Entry Specialist | | | | \$ - | \$ 32,202.00 | |
| Housing | Landlord Incentive Program | | | | \$ - | \$ 55,000.00 | |
| Human Rights and Relations | Eviction Diversion | | \$ 167,046.00 | | \$ 167,046.00 | | |
| Human Rights and Relations | Government Alliance on Racial Equity Youth Program | | \$ 46,540.00 | | \$ 46,540.00 | | |
| Human Rights and Relations | Language Access Services | | \$ 15,000.00 | | \$ 15,000.00 | | |
| Information Technologies | Technology, County-wide Multi-Factor Authentication, and Zoom | | \$ 878,629.00 | \$ 878,629.00 | \$ - | | Revenue replacement deemed ineligible |
| Information Technologies | Broadband Infrastructure Design and Implementation | | \$ 5,000,000.00 | | \$ 5,000,000.00 | | |
| Library | Wifi for Library Checkout to Maintain Collection | | \$ 12,000.00 | \$ 12,000.00 | \$ - | | Software funded through operating budget |
| Outside Agency Grants | Outside Agency Grants | | \$ 1,729,953.00 | \$ 1,729,953.00 | \$ - | | Too high of administrative burden on non-profits |
| Planning | Offsetting Credit Card Fees | | \$ 7,600.00 | \$ 7,600.00 | \$ - | | Credit Card Charges deemed ineligible |
| Sportsplex | Revenue Replacement | 790,000 | | \$ 790,000.00 | \$ - | | Revenue replacement deemed ineligible |
| Tax/Housing | Long Time Homewoner Assistance Program | | \$ 250,000.00 | | \$ 250,000.00 | | |

| | | | | | | | |
|--------------|--|------------------|-------------------|------------------|------------------|------------------|--|
| Tax/Housing | Long Time Homewoner Assistance Program Software | | | | | \$ 8,905.00 | |
| TOTAL | | 1,686,200 | 10,780,061 | 4,182,392 | 8,283,869 | 3,345,793 | |

Attachment 2

ARPA Project Summaries*

*Projects Funded as of December 14, 2021

Approved FY 2021-22 Round 1:**Senior Lunch Program – Department on Aging: \$119,229**

This project provides funding to supplement the Senior Lunch Program, which traditionally provides a hot, nutritionally balanced meal daily in a group setting, Monday-Friday for county resident adults 60+. During the COVID-19 Pandemic and County State of Emergency, the meal provision has been altered to 3 days/week drive through service at the 2 Orange County Senior Centers. These funds provide for the continuation of the expanded lunch program. This funding expands the program to meet increased demand and for the drive-through and curbside service to continue as necessary. Participants aged 60 and over are asked to make a voluntary financial contribution to the lunch program but are not required to pay for this service.

Replacement Temporary Facility Modifications – Asset Management Services: \$51,136

This project provides funding to create permanent facility modifications to county-owned facilities to reduce the spread of SARS CoV2. These will replace temporary modifications made to combat the spread of airborne viruses. Modifications can come in the form of improving airflow, simplifying foot tracking, and installing permanent air barriers.

Restart the Arts Grants – County Manager: \$100,000

This project provides funding to mitigate business disruptions caused by COVID-19 and provide programmatic support to arts organizations as they begin to re-welcome audiences. The Orange County Arts Commission (OCAC) distributed the funds through grants to the local arts community. The application period was August 2 through August 31, 2021.

The primary purpose of the Restart the Arts program was to assist the nonprofit arts industry which, pre-pandemic, employed 4,000 creative workers and generated \$131M in spending in Orange County each year. Because of this, nonprofit arts organizations received funding priority; however, other arts organizations were invited to apply, particularly those whose operations have a high impact in our community through employment, tourism, or services offered to county residents or artists. The following groups were eligible to apply for funding. All applicants were required to be physically located in Orange County, NC.

Arts Commission Aid to Impacted Industries – County Manager: \$16,000

This project provides funding to the Orange County Arts Commission to support the local art community. These activities will include special events, donation drives, as well as support to artists in the Eno Mill Artist Studios rented by the county.

ARPA Grant Compliance Position – Criminal Justice Resources Department: \$38,751

This project provides funding for a 0.5 FTE ARPA Grant Compliance Position through FY 22. The position will provide additional administrative support for the Criminal Justice Resource Department as it administers the Street Outreach, Harm Reduction, and Deflection (SOHRAD) program funded by ARPA.

Street Outreach, Harm Reduction, and Deflection (SOHRAD) – Criminal Justice Resources Department & Housing and Community Development: \$160,000

This project provides funding to continue the work of the Street Outreach, Harm Reduction, and Deflection (SOHRAD) team, which connects with people living unsheltered to work on housing issues and other needs such as connections to healthcare and mental healthcare. Since the team started in October 2020, they have served over 230 people living outside or in a place not meant for human habitation. The service and housing needs of people living unsheltered have been exacerbated greatly by the COVID-19 pandemic. This group represents some of the most medically fragile people in our community - by and large the population is older and aging and have medical complications that put them at high risk for contracting and dying from COVID-19. The SOHRAD team rode along with the mobile vaccination unit to connect people living unsheltered with the COVID-19 vaccine – 26 people received the COVID-19 vaccine with SOHRAD’s help. The team has assisted 60 people to transition from homelessness to housing, and 180 people to funded services like supplies, food, and transportation. The team’s Clinical Coordinator provided mental health therapy and other clinical services to 98 people. And the team assisted with over 60 deflections from law enforcement – without this work those 60 people would likely have ended up with involvement in the criminal justice system costing taxpayer dollars.

Tourism and Hospitality Recovery – Economic Development: \$150,000

This project provides funding to the Orange County Visitors Bureau to aid in the recovery of tourism and hospitality in Orange County. The county’s central business district of Chapel Hill and around the University of North Carolina at Chapel Hill (where two-thirds of the tourism, and hospitality industry resides) lost 60% of its tourism revenues during the pandemic because the leading tourism generator is the University of North Carolina at Chapel Hill. Recovery will need to include a safe welcome center that serves as an attraction for guests to visit the central business district, learn about Chapel Hill’s history and use this experience as a reason for exploring near-by businesses related to the hospitality industry.

To answer this call, Visitors Bureau leaders contacted former resident and Grammy winning singer and song writer, James Taylor, whose song “Carolina in My Mind,” was written about Chapel Hill. Leaders knew that a new visitor market would be attracted by a personalized welcome from James Taylor, a live rendition of his music, tourism materials related to his favorite things in Chapel Hill, and photo opportunities with his album covers, signed by James, welcoming visitors to Chapel Hill. For recovery to happen in Orange County, tourism leaders must create assets apart from the University of North Carolina. This locale will be in the heart of the Central Business District and Visitors Center leaders are working to add displays and brochures on surrounding local businesses to help this industry recovery.

Durham Tech Community College for Small Business Center – Durham Technical Community College: \$70,000

This project will provide support for startup and existing entrepreneurs, with special focus on the underserved low to moderate income business community, by providing information and tools needed to develop and scale business ideas through viable, sustainable, profitable, and successful practices. Through the services provided by Durham Tech’s Small Business Center (SBC), entrepreneurs receive assistance in business areas such as business planning, marketing, legal, accounting, and financial management.

Affordable Housing – Home Repairs – Housing and Community Development: \$120,000

This project provides funding to the Orange County Department of Housing and Community Development for assistance to low-income homeowners for urgent repairs and comprehensive housing rehabilitation. To qualify for these programs, applicants must 1) meet income eligibility restrictions; 2) own a property located in Orange County and occupy it as their primary residence; and 3) be current on the property taxes or be on an approved payment plan that is in good standing. Applications can be submitted by email, mail, or in person. These funds expanded the County’s ability to finance home repairs to fix imminent threats to health and safety, provide accessibility modifications, and provide larger more comprehensive repairs to homes for homeowners to extend the usable life of their homes.

Emergency Housing Assistance and Coordinator – Housing and Community Development: \$1,926,357

This project supports the Orange County Emergency Housing Assistance fund and its program coordinator, which was created under the Risk Mitigation and Housing Displacement Fund to help Orange County residents with low incomes prevent eviction and homelessness and secure and maintain stable housing. Increased unemployment and underemployment due to the COVID-19 pandemic has resulted in many people being unable to pay rent and utilities. Assistance is available to households in Orange County that: (1) Earn no more than 30% of the area median income (AMI), (2) Have an urgent need for housing assistance that is related to the COVID-19 pandemic, and (3) Do not have adequate resources to cover the cost of their housing need. Eligible activities for EHA include rent, mortgage and utility payments, security deposits, application fees and other emergency housing-related expenses. The EHA Program has provided over \$6 million in housing assistance to more than 1,500 Orange County residents since March 2020.

Housing Locator – Housing and Community Development: \$28,810

This project provides funding for 1.0 FTE Housing Locator position to provide client-level assistance in locating units for people exiting homelessness, people with Housing Choice Vouchers, and other people at risk of homelessness who contact the Housing Helpline. The position will work in coordination with the Housing Access Coordinator (HAC) to develop and maintain landlord relationships. This will allow the HAC to focus more completely on system-level landlord recruitment, which is not currently feasible due to demand for providing direct housing navigation support for the more vulnerable residents in housing search with vouchers in-hand. People are searching for units with Housing Choice Vouchers and other rental assistance without being able to locate units. As of September 2021, there are currently 170 households experiencing homelessness who are connected to service providers and in active housing search, up from an average of 102 households in 2019.

Eviction Diversion – Housing and Community Development: \$167,046

This project provides funding for an Eviction Diversion Attorney who offers free legal counsel to people in eviction proceedings and an Eviction Diversion Expeditor, who connects people facing and at risk of eviction with community resources and funding. The Orange County Board of Commissioners created an Eviction Diversion Program in June 2020 to help eligible county residents avoid eviction as a result of financial hardship caused by the COVID-19 pandemic and these positions support that program.

Government Alliance on Race and Equity (GARE) Youth Program – Human Rights & Relations: \$46,540

This project provides funding for a four week summer session bringing together diverse students from each Orange County high school to learn the Government Alliance on Race and Equity (GARE) methodology for advancing racial equity. The youth will identify and engage with diverse groups of youth to develop a long-term recovery strategy from the COVID-19 pandemic for youth led by youth. The program supports the activities of the GARE Countywide Racial Equity Plan and the Countywide Long Term Recovery Plan. These funds will be used to pay stipends and program costs for the session. The Orange County Human Rights and Relations Department will host the session.

Language Access Services – Human Rights & Relations: \$15,000

This project provides funding for language services and outreach to communities in Orange County on government services and human rights and relations issues exacerbated by the COVID-19 pandemic. Translations and interpretations are provided through this program to improve the accessibility of services to persons with limited English proficiency.

Broadband Infrastructure Design and Implementation – Information Technologies: \$5,000,000

This project provides funding to expand broadband internet connections to rural and underserved parts of Orange County. The county has identified 4,234 addresses that are underserved by broadband providers, with the vast majority in rural census tracts in the county.

Long Time Homeowner Assistance Program – Tax Administration and Housing and Community Development: \$250,000

The project provides funding for a program to partially offset an increase on property taxes for income-eligible, long time homeowners (must own and have lived on the property for at least 10 years) in Orange County following a revaluation of all property values during the COVID-19 pandemic. Funds will also be used to create a communications and outreach strategy to share information about the program with County residents. Housing and Community Development Department staff will be primarily responsible for administering the LHA program – collecting applications and supporting documentation from applicants, and verifying program eligibility for each applicant. The Orange County Housing Helpline will play a key role in assisting County residents with completing applications and gathering documentation. The Tax Department will provide some of the eligibility verification details to Housing and Community Development Department staff during application review. Once an application is approved for assistance, Housing and Community Development Department staff will coordinate with

the Finance and Administrative Services Department and Tax Department to issue a credit towards the taxpayer's property tax bill. The program has a proposed launch date of October 8, 2021. All applications must be received by 5:00pm on December 15, 2021 to allow time for processing.

Youth Enhancement Fund – Department of Social Services: \$25,000

This project provides additional funding to the youth enhancement fund to support enrichment programs for children living in low-income families. For several years, the Department of Social Services has paid the fees and other costs for children to participate in recreation, tutoring, and other social programs. Social Workers identify children who would benefit from these activities and work with numerous providers to secure slots for these services. Many of the children participate in camps or organized sports and benefit from the socialization, group membership or individualized attention they receive. The Department of Social Services (DSS) will use the extra funds to serve more children, particularly given the impacts of the COVID-19 pandemic on children and youth. The Board of County Commissioners endorsed this concept several years ago as a way to provide equity for all children and all program types. DSS anticipates spending or obligating these funds by June 30, 2021.

Recommended FY 2021-22 Round 2:

Point Ionization – Detention Center – Asset Management Services: \$68,800

These funds will provide Point Ionization in the HVAC systems in the new Detention Center. Point Ionization is a useful tool in removing airborne viruses, such as SARS CoV2, from air systems. This should help mitigate the spread of COVID-19 in congregate settings such as the detention center.

Tourism and Hospitality Recovery – Economic Development: \$150,000

This project provides funding to the Orange County Visitors Bureau to aid in the recovery of tourism and hospitality in Orange County. The county's central business district of Chapel Hill and around the University of North Carolina at Chapel Hill (where two-thirds of the tourism, and hospitality industry resides) lost 60% of its tourism revenues during the pandemic because the leading tourism generator is the University of North Carolina at Chapel Hill. Recovery will need to include a safe welcome center that serves as an attraction for guests to visit the central business district, learn about Chapel Hill's history and use this experience as a reason for exploring near-by businesses related to the hospitality industry.

To answer this call, Visitors Bureau leaders contacted former resident and Grammy winning singer and song writer, James Taylor, whose song "Carolina in My Mind," was written about Chapel Hill. Leaders knew that a new visitor market would be attracted by a personalized welcome from James Taylor, a live rendition of his music, tourism materials related to his favorite things in Chapel Hill, and photo opportunities with his album covers, signed by James, welcoming visitors to Chapel Hill. For recovery to happen in Orange County, tourism leaders must create assets apart from the University of North Carolina. This locale will be in the heart of the Central Business District and Visitors Center leaders are working to add displays and brochures on surrounding local businesses to help this industry recovery.

First Responder Behavioral Health Program – Emergency Services: \$45,000

This project seeks to improve mental health care and support for first responders and medical providers. It provides for up to 300 (1 hr.) clinical sessions with a mental healthcare provider experienced with first responders, 5 group debriefings/diffusions, professional development (mental health), and wellness visits in the first year. Additionally, this contract provides support for bolstering a peer support program, which is in development. In subsequent years, the number of visits has been decreased.

The first part of the program, 5 critical group defusing/debriefing sessions, includes all first responders who may be involved in a critical incident (EMS, telecommunicators, law enforcement, fire, etc.) The second part of the project is for up to 300 (1) hour clinical sessions specifically for Emergency Services Department employees.

Powered Air Purifying Respirators (PAPRS) – Emergency Services: \$124,000

This project will provide funding for Powered Air Purifying Respirators (PAPRS), which will replace the need for N95 respirators and annual fit testing. This will outfit Orange County Emergency Services Emergency Medical Services units and South Orange Rescue Squad units. PAPRS provide better protection, allow for prolonged use, provide easier communications, and allow providers to maintain the use of prescription lenses. PAPRS are easier to procure and more resilient than other respirators. The PAPR filter is also more adaptable: can be replaced to match the appropriate threat (chemical, biological, and/or radiological). PAPRS typically have a life span of about 5-7 years when properly maintained. This provides for 70 total units plus all necessary components.

American Rescue Plan Act (ARPA) Coordinator – Finance: \$66,886

This project will support contract analytical staff for coordinated management of all Coronavirus State and Local Recovery Funds (CSLRF)/ARPA to ensure regulatory compliance, audit compliance, and maximum funding.

Emergency Housing Assistance and Coordinator – Housing and Community Development: \$2,700,000

This project supports the Orange County Emergency Housing Assistance fund and its program coordinator, which was created under the Risk Mitigation and Housing Displacement Fund to help Orange County residents with low incomes prevent eviction and homelessness and secure and maintain stable housing. Increased unemployment and underemployment due to the COVID-19 pandemic has resulted in many people being unable to pay rent and utilities. Assistance is available to households in Orange County that: (1) Earn no more than 30% of the area median income (AMI), (2) Have an urgent need for housing assistance that is related to the COVID-19 pandemic, and (3) Do not have adequate resources to cover the cost of their housing need. Eligible activities for EHA include rent, mortgage and utility payments, security deposits, application fees and other emergency housing-related expenses. The EHA Program has provided over \$6 million in housing assistance to more than 1,500 Orange County residents since March 2020.

Housing Helpline Coordinated Entry Specialist – Housing and Community Development: \$32,202

This project provides funding for a 0.5 FTE Coordinated Entry Specialist to support the Orange County Housing Helpline (HH). People in housing crisis can contact the Housing Helpline; staff there

direct people to the most appropriate resources, including emergency financial assistance, homelessness prevention, homelessness diversion, shelter referrals, and permanent housing referrals through the coordinated entry by-name list. Funding for 0.5 FTE Coordinated Entry Specialist for prevention/diversion work would ensure that there are staff to field the average 1100 calls and 880 emails received each month. Funding for the 0.5 FTE Coordinated Entry Specialist would allow more staff on the Housing Helpline that is inundated with calls since launching in March 2020. Before COVID-19, Orange County's Coordinated Entry system served about 60 households per month. Since April 2020, the Housing Helpline has served on average of 464 households per month, fielding 9,914 calls and 7,065 emails between April and December 2020.

Landlord Incentive Program – Housing and Community Development: \$55,000

This project provides funding for the Landlord Incentive Program (LIP), which provides payments directly to landlords signing new leases for Housing Choice Voucher/Section 8 holders and residents in search of housing as referred from partner agencies such as Compass, Local Re-entry Council, and others. LIP is managed by the Housing Access Coordinator and has been hugely successful in landlord recruitment. Since the COVID-19 eviction moratorium created stagnation in unit turnover, providing Landlord Incentives for new and renewing leases has proven an effective strategy to create unit availability for people in housing search. The LIP provides up to \$1,000 bonus for landlords signing new tenant participants in voucher and OCHCD partner programs and \$500 for returning landlords.

Long Time Homeowner Assistance Program Software – Tax Administration and Housing and Community Development: \$8,905

This project provides funding for software used by staff to administer the Long Time Homeowner Assistance Program, which is a program to partially offset an increase on property taxes for income-eligible, long time homeowners (must own and have lived on the property for at least 10 years) in Orange County following a revaluation of all property values during the COVID-19 pandemic.

Countywide Food Distribution and Storage – Department of Social Services: \$60,000

This project provides additional funding to the Orange County Department of Social Services to continue to provide access to foods for low-income families, particularly during times when schools or other programs providing food are on breaks. The agency will provide this assistance through mass distributions to families as well as through the pantries operating at each DSS site. These funds will be utilized during the 2021-2022 Winter Break and will all be expended by the end of January 2021. The outcome of these funds is reducing food insecurity for families, one of the main needs identified during the recovery planning process.

Stabilization Program for Former Foster Youth – Department of Social Services: \$10,000

This project will provide funding to support youth who have graduated from foster care. Youth who have been in foster care can have many issues after leaving foster care. Often they have limited family support and many experience financial instability and behavioral health issues. The Orange County Department of Social Services remains in contact with many of these individuals for years after they leave care and has been able to intervene to stabilize the situation and assure the youth connect to

appropriate resources. Most of these youth are not eligible for other foster care funds and the Department of Social Services will utilize these funds to meet some of their needs such as purchasing household items, clothing, and travel funds to return to the community, and short term housing while also providing counseling and referrals to appropriate resources.

Support for Low Income Families – Department of Social Services: \$25,000

This project will provide funding support to low-income families that have experienced barriers to employment and/or access to essential services created or exacerbated by the COVID-19 pandemic. Department of Social Services will assist in reducing barriers to transportation by directly paying transportation providers, supplying gas cards, paying vehicle repair costs, etc. Other support may include equipment or supplies need for obtaining or retaining employment, emergency needs, items for health and safety, or costs to safely quarantine when necessary.

Unassigned: \$17,210,060

This funding is reserved for future allocations. All funds must be encumbered by December 2024.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No.** 6-b

SUBJECT: Review and Approval of Updated Draft BOCC Rules of Procedure

DEPARTMENT: Board of Commissioners

ATTACHMENT(S):

Draft BOCC Rules of Procedure

INFORMATION CONTACT:

Laura Jensen, Clerk to the Board, 919-245-2130

PURPOSE: To review the updated draft BOCC Rules of Procedure, make changes if appropriate, and approve a final version.

BACKGROUND: The Board of County Commissioners first adopted a Rules of Procedure in May 2002. There have been multiple amendments to the Rules of Procedure since that time. When the Rules of Procedure were first drafted, contextual information was included in the form of comments. These comments were drawn from North Carolina General Statutes, literature regarding best practices for local government meetings, and *Robert's Rules of Order*, and were intended to help the reader understand the purpose of the rule.

In Spring 2021, the Clerk to the Board, in consultation with the County Attorney, suggested revisions to the Rules of Procedure to reflect updated North Carolina General Statutes regarding local government meetings, the location of the office of the Clerk to the Board, practices for publishing agendas, and the current process for evaluating the County Manager, Clerk to the Board, and County Attorney. The entire document was also edited for clarity and grammatical errors. The draft was then reviewed and edited by the Chair and Vice-Chair of the Board of County Commissioners. The table of contents will be finalized upon publication. The updated draft was included as an information item to the Board of County Commissioners in the December 6, 2021 Virtual Business Meeting agenda packet.

FINANCIAL IMPACT: There is no financial impact associated with this item.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board discuss the updated draft BOCC Rules of Procedure, make changes if appropriate, and approve a final version.

Rules of Procedure for the Board of County Commissioners

Adopted - May 2002
Amended – December 2021
Printed - ----- 2022



Orange County
North Carolina

***Principles of
Parliamentary Law***

- *Justice and courtesy for all*
- *Majority rules*
- *Right of the minority to be heard*
- *Protection of the rights of the individual and the absentee*
- *Consideration of one thing at a time*
- *Maintain order*
- *Expedite business*
- *Partiality to no one*

Rules of Procedure for the Board of County Commissioners

Table of Contents

| | |
|-------------------------------------|----|
| Introduction | 6 |
| I. Applicability | 7 |
| II. Open Meetings | 8 |
| III. Organization of the Board..... | 9 |
| IV. Meetings | 10 |
| V. Agenda | 14 |
| VI. Conduct of Debate..... | 17 |
| VII. Quorum and Other Rules..... | 26 |

Orange County, North Carolina

[Page intentionally blank]

Rules of Procedure for the Board of County Commissioners

Introduction

These rules of procedure were designed for use by a North Carolina board of county commissioners. Essentially, the rules are a modified version of *Robert's Rules of Order, Revised*. *Robert's Rules* is intended to guide the deliberations of a large legislative body; consequently, it is not always appropriate for a small governing board, which can afford to proceed with much less formality. Another valuable resource consulted for this revision of the rules was *Mason's Manual of Legislative Procedure*. *Mason's Manual* is intended primarily for state legislatures, but its extensive discussion of the basic principles of parliamentary law and procedure is valuable for local governing boards as well.

These rules apply to all meetings of the Orange County Board of Commissioners at which the board is empowered to exercise any of the executive, administrative or legislative powers conferred on it by law.

The North Carolina law (G.S. 153A-41) permits a board of county commissioners to adopt its own rules of procedure if these conform to “generally accepted principles of parliamentary procedure” and do not conflict with applicable law. *Mason's Manual* suggests that parliamentary law affecting the work of a board of county commissioners can be summarized in ten basic principles:

1. *The board can take only those actions that it has authority or jurisdiction to take.* A corollary of this principle is that the board's action, to be valid, must not violate any applicable law or constitutional provision. This is simply another manifestation of the familiar legal doctrine that a unit of local government has only those powers conferred on it by law or necessarily implied from some specific grant of power.
2. *The board must meet in order to act.* Under North Carolina law, the powers conferred on the county governing board are exercised by the county board of commissioners as a group, not its individual members. Therefore, the group must meet in order to act.
3. *All board members must receive proper notice of meetings.* Since all members are equally entitled to participate in board

meetings, each member must be properly notified of the place, time, and purpose of meetings.

4. *The board may act only with a quorum.*
5. *There must be a question before the board on which it can decide.*
Except when electing their own officers or balloting for appointments, legislative bodies proceed by voting yes or no on specific proposals put forward by one or more members. Each member has a right to know at all times what question is before the board and what effect a yes or no vote would have on that question.
6. *There must be opportunity for debate.* The very nature of a deliberative body requires that members share information and opinion about matters before the board.
7. *Questions must be decided by vote.* Legislative bodies do not decide matters by discussing them until a consensus emerges.
8. *Votes are decided by majority.* Usually only a simple majority of votes cast suffices, though the board's rules or an applicable law may sometimes require an extraordinary majority.
9. *There must be no fraud, trickery, or deception in the board's proceedings.*
10. *The board's rules of procedure must be applied consistently.*

Most of the following rules have been modified to suit local needs and customs. The comments following the rules note when a rule is derived from procedures required by state law (North Carolina General Statutes, hereinafter cited as G.S.).

I. Applicability

Rule 1. Applicability of Rules. These rules apply to all meetings of the Board of Commissioners of Orange County, whether in-person or electronic, at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

Comment: On the whole, rules of procedure of a governing board are intended to govern formal meetings of the board where it will exercise any of its executive and legislative powers. These rules fulfill that purpose and also are designed to ensure board compliance with the Open Meetings Law, G.S. 143-318.9 through 318.18, which applies to any gathering

of a majority of the board to discuss public business. The rules also apply to informal work sessions or committee meetings where public business is discussed but no official action is taken.

II. Open Meetings

Rule 2. Meetings to be Open.

(a) It is the public policy of North Carolina and of Orange County that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Orange County Board of Commissioners shall be open to the public and any person is entitled to attend such meeting.

Comment: See G.S. 143-318.10(a).

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

Comment: See G.S. 143-318.10(d). The Open Meetings Law provides that a social meeting or other informal assembly or gathering together of the members of the board does not constitute an official meeting unless it is “called or held to evade the spirit and purposes” of the laws requiring meetings to be open.

Comment: See G.S. 143-318.13(a) specifically authorizing electronic meetings of public bodies.

Rule 3. Closed Sessions.

(a) Notwithstanding the provisions of Rule 2, the board may hold a closed session in compliance with G.S. 143-318.11. It is the policy of the state of North Carolina that closed sessions shall be

held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a session is required.

(b) The board may go into closed session only upon a motion made and duly adopted at an open meeting. This motion must cite one or more of the permissible purposes listed in G.S. 143-318.11. In addition, a motion to go into closed session pursuant to G.S. 143-318.11(a)(1) must state the name or citation of the law that renders the information to be discussed privileged or confidential, and a motion to go into closed session pursuant to G.S. 143-318.11(a)(3) must identify the parties in each existing lawsuit, if any, concerning which the board expects to receive advice during the closed session.

(c) The board shall determine who shall attend the closed session. The County Manager, County Attorney, and Clerk to the Board shall attend all closed sessions unless otherwise determined by the board. The board shall determine other necessary attendees as the facts and the circumstances dictate. With respect to a closed session to consult with the County Attorney or another attorney employed by or retained by the county, in order to preserve the attorney-client privilege between the attorney and the board, the board shall not permit a person to attend the closed session if that person's attendance would defeat the attorney-client privilege.

(d) The board shall conclude a closed session and return to open session upon a motion made and adopted to do so.

III. Organization of the Board

Rule 4. Organizational Meeting. The board shall hold an organizational meeting at its regular meeting place on the first Monday in December of each year. The incumbent chair shall call the meeting to order and shall preside until a chair is elected. The agenda shall be as follows: (1) special recognition of any out-going commissioners, (2) taking and subscribing the oath of office by the newly elected members of the board, (3) election of a chair and vice-chair, (4) designation of voting delegate for all NCACC and

NACo meetings, and (5) seating arrangement.

Comment: This rule incorporates the requirements of G.S. 153A-26 concerning the times for organizational meetings and the qualifications of new members and the requirements of G.S. 153A-39 concerning the election of the chair and the vice-chair.

G.S. 153A-26 provides that the oath of office is that prescribed by Article VI, Section 7, of the North Carolina Constitution (see also G.S. 11-6 and G.S. 11-7) and may be administered by any person authorized by law to administer oaths. The written statement of the oath shall be signed by each new member and filed with the Clerk to the Board. The statute also provides that a new member who cannot be present at the organizational meeting may take and subscribe the oath later.

Rule 5. Election of the Chair and Vice-Chair. The chair and vice-chair of the board shall be elected annually at the organizational meeting for the ensuing year, for a term of one year and shall not be removed from the office unless he or she becomes disqualified to serve as a member of the board.

Comment: G.S. 153A-39 provides for the election of a chair and states that he or she is chosen “for the ensuing year.”

IV. Meetings

Rule 6. Business and Special Meetings.

(a) Business Meetings. The board usually holds a business meeting on the first and third Tuesdays of each month in accordance with the “Board Calendar of Meetings,” as approved by the board. All meetings shall begin at 7:00 p.m. unless otherwise noted on the “Calendar of Meetings.” The board may change the place or time of any meeting listed on the approved “Calendar of Meetings” by a majority vote at a Business Meeting, and have it posted and noticed no less than seven days before the change takes effect. A notice shall be filed with the Clerk to the Board and published in print media and online, posted on the principal bulletin board of the county, and at or near the regular meeting place, and notices shall be sent to all persons who have requested notice of meetings of the board.

(b) Special Meetings. The chair or a majority of the members of the board may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and the subjects to be considered. The person or persons who call the meeting shall cause the notice to be posted on the principal bulletin board of the county, located at the office of the Clerk to the Board in Hillsborough, and at or near the meeting place, and delivered to the chair and all other board members or left at the usual dwelling place of each member at least 48 hours before the meeting. In addition, the notice shall be mailed or sent by e-mail to individual persons and news media organizations who have requested such notice as provided in subsection (e), below. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed a written waiver.

A special meeting may also be scheduled by vote of the board in open session during another duly called meeting. The motion calling for a special meeting shall specify its time, place, and purpose. At least 48 hours before the meeting, the notice shall be posted on the principal bulletin board of the county and at the regular meeting place, and delivered to all board members not present at the meeting at which the special meeting was called. Only items of business specified in the motion calling for the special meeting may be transacted at a special meeting called in this matter unless all members are present and the board determines in good faith at the meeting that it is essential to discuss or act on the additional item immediately.

Comment: See G.S. 153A-40(a) and G.S. 143-318.12(b)(2).

(c) Emergency Meetings. The chair or a majority of board members may at any time call an emergency meeting of the board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each board member and to each news organization that has filed a written emergency meeting notice request with the Clerk to the Board, and whose request includes that organization's telephone number. Only business connected with the emergency may be considered at an emergency meeting.

(d) Work Sessions, Committee Meetings or other Informal Meetings. The chair or a majority of the board members may schedule work sessions, committee meetings or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by the board. The times and subject matter may be established by resolution or order of the board. A schedule of any such meetings that are held on a regular basis shall be filed in the same place and manner as the schedule of business meetings.

Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special board meetings. Work sessions include regular work sessions, budget work sessions, joint meetings with other governmental entities, and other meetings not scheduled as “business meetings.” All work sessions are open to the public and the public may attend and observe work sessions. Public comment generally is not accepted at work sessions for several reasons: (1) Work sessions are intended to be informal meetings to allow discussion between and among board members; (2) For the most part, items presented at work sessions for board discussion, are items in the early stages of development, items for which county staff need direction from the Board of Commissioners, or items needing further discussion before formal presentation for decision; (3) Final and binding votes on work session agenda items are not conducted at work sessions, unless the board members vote to suspend the rules prior to voting on a work session agenda item; and (4) Except as noted above all work session agenda items are brought forward for final and binding votes at board business meetings at which public comment is sought and encouraged.

(e) Sunshine List. Any individual person and any newspaper, wire service, radio station, and television station may file with the Clerk to the Board of Commissioners a written request for notice of all special meetings of the board. These are meetings not listed on the “Calendar of Meetings.” Orange County maintains an online list service in which anyone may add their email address to receive meeting notices at no charge.

Comment: The Open Meetings Law requires that any “official meeting” at which a majority of the board deliberates on public business must be open to the public and notice must

be given. The last sentence of the rule embodies that principle. The rule goes beyond the Open Meetings Law in requiring a published schedule of work sessions or committee meetings held on a regular basis.

G.S. 143-318.13(a) provides that if the board holds any regular, special, emergency, or other official meeting by use of conference telephone or other electronic means, the clerk shall provide a location and means whereby members of the public may listen to the meeting and notice of the meeting shall specify that location.

Rule 7. Location of Meetings. All meetings shall be held within the boundaries of Orange County except as otherwise provided herein.

1. A joint meeting with the governing board of any other political subdivision of this state or any other state may be held within the boundaries of either subdivision as may be stated in the call of the meeting. At any such joint meeting, the board reserves the right to vote separately on all matters coming before the joint meeting.
2. A special meeting called for the purpose of considering and acting upon any order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or such other place as may be stated in the call of the meeting.
3. A meeting may be held in connection with a retreat, forum, or similar gathering solely for the purpose of providing members of the board with general information relating to the performance of their public duties.
4. A meeting may be held while in attendance at a convention, association meeting, or similar gathering solely to discuss or deliberate the board's position concerning convention resolutions, elections of association officers, and similar issues that are not legally binding upon the board or its constituents.

Comment: See G.S. 153A-40(c). That statute also speaks of two other categories of gatherings that may be held outside the boundaries of the county: retreats, and meetings with the legislative delegation representing the county in the General Assembly. The statute expressly forbids the board to take any official action at any such meetings, so they are not

mentioned in the proposed rule. However, such meetings are covered by the Open Meetings Law if a majority of the board is present and “deliberates” on public business.

V. Agenda

Rule 8. Agenda.

(a) The County Manager shall prepare the agenda for each regular, special and emergency meeting subject to review and approval by the chair and vice-chair. A staff request to have an item of business placed on the agenda must be received by 12:00 noon, Monday of the week prior to the meeting. Any board member may petition the board to have an item placed on the agenda.

(b) The agenda packet for business meetings shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be provided to each member of the board at least ninety-six hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been provided to each board member or left at his or her usual dwelling. Copies shall be available for members of the public in the Clerk to the Board’s office and at the Orange County Public Library. The agenda is also published on the county’s web site, orangecountync.gov.

For all other meetings (special, work sessions, etc.) a copy of the agenda and attachments shall be available to members of the public on the Orange County website prior to the meeting (usually 48-72 hours before the meeting).

The Clerk to the Board’s office shall post agendas for business meetings, public hearings and work sessions on the county’s website within 24 hours after they are distributed to the Board of Commissioners by the County Manager’s office.

(c) The board may, by approval of a majority of its members, i.e. an affirmative vote equal to a quorum, add an item at the meeting that is not on the agenda.

Comment: Because of the increased volume and complexity of the matters they must consider, nearly all boards use an agenda. Some boards use an agenda only to organize the material they must consider and to give themselves an opportunity to study the issues before they meet. These boards generally allow last-minute additions to the agenda by general consent. This rule takes that approach. Other boards use their agenda to control the length of their meetings. Often a board that uses its agenda for this purpose will hold a work session before the business meeting to ask questions and thoroughly explore the proposals that must be voted on at the business meeting. Generally these boards take a stricter approach and do not allow late additions to the agenda unless an emergency exists.

Rule 9. Public Comments - Items Not on the Printed Agenda.

The County Manager shall include on the agenda of each business meeting a time for comments or questions from members of the public in attendance. The chair will first recognize individuals or groups who have signed up to be heard, and then may recognize others, subject to available time. Speakers will be allowed three minutes each up to an hour total. After the hour set aside for public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted. As noted above public comment is not accepted at work sessions but only at business meetings. North Carolina law requires local governments to schedule one public comment period at one regular meeting one time per month. Orange County far exceeds this mandate and schedules a public comment period at all of its business meetings during which the public may comment on any topic. Further, the public is invited to comment separately on each item on a business meeting agenda.

Petitions/Resolutions/Proclamations and other similar requests submitted by the public will not be acted upon by the Board of Commissioners at the time presented. All such requests will be referred for Chair/Vice-Chair/Manager review and for recommendations to the full board at a later date regarding a) consideration of the request at a future business meeting; or b) receipt of the request as information only. Submittal of information to the board or receipt of information by the board does not constitute approval, endorsement, or consent.

Comment: The board may decide as a matter of general policy to set aside part of each meeting for individuals or groups to address the board. The rule allows any individual or group to

get on the agenda but lets the board decide whether there is time to hear its comments.

Rule 10. Order of Business.

(a) Business Meetings. For all business meetings, items shall be placed on the agenda as listed below:

1. Additions or Changes to the Agenda
Public Charge
2. Public Comments (Limited to One Hour)
3. Announcements and Petitions by Board Members (Three Minute Limit Per Commissioner)
4. Proclamations/Resolutions/Special Presentations
5. Public Hearings
6. Regular Agenda
7. Reports
8. Consent Agenda
 - Removal of Items from Consent Agenda
 - Approval of Remaining Consent Agenda
 - Discussion and Approval of the Items Removed from the Consent Agenda
9. County Manager's Report
10. County Attorney's Report
11. Appointments
12. Information Items
13. Closed Session
14. Adjournment

If there is no objection, the chair may call items in any order most convenient for the dispatch of business. The meeting will end at 10:30 p.m. unless there is a majority vote of the board to continue beyond that time.

(b) Order of Business for Public Hearings

1. Opening Remarks from the Chair
2. Public Charge
3. Public Hearing Items
4. Adjournment

(c) Public Charge. A public charge may be read at each meeting to set the tone for civil decorum. The public charge is placed on the agenda immediately after item 1, "Additions or Changes to the

Agenda” and it shall read:

The Board of Commissioners pledges its respect to all present. The Board asks those attending this meeting to conduct themselves in a respectful, courteous manner toward each other, county staff and the commissioners. At any time should a member of the Board or the public fail to observe this charge, the Chair will take steps to restore order and decorum. Should it become impossible to restore order and continue the meeting, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed.

The BOCC asks that all electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

Please be kind to everyone.

VI. Conduct of Debate

Rule 11. Powers of the Chair. The chair shall preside at all meetings of the board if he or she is present. If the chair is absent, the vice-chair shall preside. If both the chair and vice-chair are absent, another member designated by vote of the present board members shall preside. A member must be recognized by the presiding officer in order to address the board. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed above may be appealed to the board upon motion of

any member. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Comment: The chair normally presides at board meetings. In his or her absence, the vice-chair, if there is one, presides. If there is no vice-chair, or if both the chair and vice-chair are absent, the board typically selects a temporary presiding officer.

The board may choose whether the chair always votes or votes only to break a tie. Someone who is temporarily presiding in the chair's place is still a full member of the board and thus entitled to make motions and to vote.

The chair or anyone presiding in the chair's place has substantial procedural powers, but those powers are not absolute. Under this rule and Rule 15, any board member is entitled to make a motion to appeal to the other members concerning the presiding officer's decisions on motions, decorum in debate and most other procedural matters.

There are two exceptions to this right of appeal. A chair or other presiding officer may adjourn without the board's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time, when necessary to "clear the air" and thus reduce friction among the members.

Rule 12. Presiding Officer when the Chair is in Active Debate. If the chair wishes to become actively engaged in debate on a particular proposal, he or she shall designate another board member to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

Comment: Good leadership depends, to a certain extent, on not taking sides during a debate. On a small board this may not always be feasible or desirable; yet an unfair advantage accrues to the side whose advocate controls access to the floor. This rule is designed to ensure evenhanded treatment to both sides during a heated debate. Ordinarily the chair should call on the vice-chair to preside if he or she finds it necessary to step aside.

Rule 13. Action by the Board. The board shall proceed by motion. Any member, including the chair, may make a motion. If two or more Commissioners speak at the same time to make a motion

(or second), the chair shall determine, for purposes of recording action for the minutes, which name the Clerk to the Board shall use.

Comment: The chair may make motions, or the chair may invite another member to make a motion by saying “The chair will entertain a motion that...”

Rule 14. Second Required. A motion shall require a second, followed by discussion and/or comments and a vote.

Comment: The philosophy underlying the requirement of a second is that if a proposal is not supported by at least two members, it is not worth the time it would take to consider the matter. A second does not necessarily mean that a member agrees with the motion, but that the member wishes the matter open to discussion. A second allows the matter to be discussed further.

Rule 15. One Motion at a Time. A member may make only one motion at a time.

Rule 16. Substantive Motion. A substantive motion is out of order while another substantive motion is pending.

Comment: This rule sets forth the basic principle of parliamentary procedure: distinct issues are considered and dealt with one at a time, so a new proposal may not be put forth until action on the preceding one has been concluded.

Robert's Rules of Order does not refer to substantive motions as such; instead it uses such adjectives as “main” or “principal.” Here, a substantive motion is any motion other than the procedural motions listed in Rule 19. The possible subject matter of a substantive motion coexists with the board’s legal powers, duties, and responsibilities. Indeed, since Rule 13 provides that the board shall proceed by motion, the substantive motion is the board’s exclusive mode of action. The procedural motions detailed in the following rules set forth the board’s various options in disposing of substantive motions.

Rule 17. Adoption by Majority Vote. A motion shall be adopted if approved by a majority of the votes cast, a quorum being present, unless an extraordinary majority is required by these rules or the laws of North Carolina. A majority is more than half. A quorum is a majority of the actual membership of the board, including any

vacant seats. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

Rule 18. Debate. The chair shall state the motion and then open the floor to debate, presiding over the debate according to these general principles:

1. The member making the motion or introducing the ordinance, resolution, or order is entitled to speak first.
2. A member who has not spoken on the issue shall be recognized before someone who has already spoken.
3. To the extent possible, the debate shall alternate between opponents and proponents of the measure.

Rule 19. Procedural Motions.

(a) In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

Comment: This rule substantially departs from *Robert's Rules of Order*. Each procedural motion in *Robert's Rules of Order* was reviewed to determine whether it was appropriate for use by a small board; substantial modifications and deletions were the result. The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, it is not available.

(b) In order of priority (if applicable), the procedural motions are:

Comment: While a substantive motion is out of order if another substantive motion is pending, several procedural motions can be entertained in succession without necessarily disposing of the immediately pending one. The order of the list below establishes which procedural motion yields to which—for example, a move to defer consideration (6) may be made while a move to refer to committee (9) is pending because (6) ranks higher on the list.

1. *To Appeal a Procedural Ruling of the Presiding Officer.* A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond

reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the board as specified in Rule 11. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Comment: Rule 11 allows the ruling of the presiding officer on certain procedural matters to be appealed to the board. This appeal must be made as soon as the presiding officer's decision is announced, so this motion is accorded the highest priority. See Rule 11 and its comment for further discussion of this motion.

2. *To Adjourn.* The motion may be made at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.

Comment: This motion differs from the *Robert's Rules of Order* motion in several respects. In *Robert's Rules of Order*, it is not debatable or amendable and can be made at any time, even interrupting substantive deliberations. In view of the small number of members and the available procedures to limit debate, this rule allows debate and amendment of the motion to adjourn but allows the motion to adjourn only when action on a pending matter is over. The motion to defer consideration or to postpone to a certain time or day may be used if the board wants to adjourn before completing action on a matter.

3. *To Take a Recess.*

Comment: *Robert's Rules of Order* does not allow debate on this motion, but since the number of members is small and procedures to limit debate are available, this rule allows debate on the motion. As in *Robert's Rules of Order*, the motion is in order at any time. Note that under Rule 11, the chair also has the power to call a brief recess.

4. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.

Comment: This motion differs from the call for the orders of the day in *Robert's Rules of Order*: it may be debated and must be made when an item of business that deviates from

the agenda is proposed or the right to insist on following the agenda is waived for that item.

5. *To Suspend the Rules.* The motion requires a vote equal to a quorum.

Comment: This motion differs from *Robert's Rules of Order* in that it is debatable and amendable and the number of necessary votes is a quorum rather than two-thirds. Thus if a board has seven members, four members (a quorum) must vote for the motion; if only four members are present at a particular meeting, all four must vote for the motion in order to adopt it. This motion is in order when the board wishes to do something that it may legally do but cannot without violating its own rules. The procedure will pose some problems for a three-member board, as it can be used to prevent one member from participating in the board's deliberations. Frequent use of the motion to prevent one member from presenting proposals to the board or from speaking on an issue before the board is of doubtful legality. A three-member board may decide to require a unanimous vote to suspend the rules.

6. *To Divide a Complex Motion and Consider it by Paragraph.* This motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Comment: This motion is the same as the division of a question and consideration by paragraph in *Robert's Rules of Order* except that it is debatable.

7. *To Defer Consideration.* The board may defer a substantive motion for later consideration at an unspecified time. A substantive motion that has been deferred expires 100 days thereafter, unless a motion to revive consideration is adopted.

Comment: This motion, which replaces the motion to lay on the table in *Robert's Rules of Order*, was renamed to avoid confusion. It allows the board temporarily to defer consideration of a proposal. It differs from *Robert's Rules of Order* in that it may be debated and amended, and in that a motion that has been deferred dies if it is not taken up by the board (via a motion to revive consideration) within one hundred days of the vote to defer consideration. (In *Robert's Rules of Order* a motion laid on the table dies at the end of the particular session of the assembly.) One hundred days is the suggested period of time for deferring consideration because it is also the time within which a proposed ordinance must be enacted (see Rule 27).

8. *To Call the Previous Question.* The motion is not in order until there has been a debate and every member has had one opportunity to speak.

Comment: This motion differs from the motion in *Robert's Rules of Order*. The *Robert's Rules of Order* motion is always in order, is not debatable or amendable, and requires a two-thirds vote for adoption. Thus, it may be used to compel an immediate vote on a proposal without any debate on the issue. Such a device may be necessary to preserve efficiency in a large assembly, but with a small board, a minimum period of debate on every proposal that comes before the board strikes a better balance between efficiency and effective representation by all board members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote.

9. *To Postpone to a Certain Time or Day.*

Comment: This motion allows the board to defer consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy.

10. *To Refer a Motion to a Committee.* The board may vote to refer a substantive motion to a committee for its study and recommendations. Sixty days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire board, whether or not the committee has reported the matter to the board.

Comment: This motion is identical with the motion of the same name in *Robert's Rules of Order* except that the introducer's right to compel consideration by the full board after a specified period of time prevents using the motion to defeat a proposal by referring it to a committee that intends to take no action on it. If the board does not use committees, this rule is unnecessary.

11. *To Amend.* An amendment to a motion must be pertinent to the subject of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to

amend. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing. A vote on a motion to amend a motion may be regarded as a vote on the motion as amended if that is determined to be the intent of the board.

Comment: This motion is identical to the motion of the same name in *Robert's Rules of Order* except for the requirement for written amendments to proposed ordinances.

12. *To Revive Consideration.* The motion is in order at any time within one hundred days of a vote deferring consideration of it. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.

Comment: This motion replaces the motion to take up from the table in *Robert's Rules of Order* and was renamed in order to avoid confusion. This motion may be debated and amended; the motion in Robert's Rules of Order may not. If the motion to revive consideration is not successful within 100 days of the original deferral date, the substantive motion expires. The subject matter of the motion may be brought forward again by a new motion.

13. *To Reconsider.* The board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie; in that case the "nos" prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through recess to a time and place certain. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting. If a member wishes to reverse an action taken at a previous meeting, he or she generally may make a new motion having the opposite effect of the prior action.

Any new motion having the opposite effect of the prior action that is related to the board issuing or not issuing a permit may be considered only where new evidence is presented to the board concerning the permit and all pertinent ordinance requirements, substantive and procedural, including those related to public hearings, have been met. Any new motion

having the opposite effect of the prior action that relates to an ordinance may only be considered consistent with pertinent ordinance requirements, substantive and procedural, including those related to public hearings.

Comment: According to *Robert's Rules of Order*, the motion may be at the same meeting or on the next legal day and may interrupt deliberation on another matter. The rule does not allow reconsideration of a vote once the meeting adjourns. A member wishing to reverse an action taken at a previous meeting may make a motion or introduce a new ordinance having the opposite effect, consistent with public hearing requirements of North Carolina Law.

14. *To Prevent Reconsideration for Six Months.* The motion shall be in order immediately following the defeat of a substantive motion, and at no other time. The motion requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioners, whichever occurs first.

Comment: This clincher motion prevents the same motion from being continually introduced when the subject has been thoroughly considered. Because this motion curtails a member's right to bring a matter before the board, a vote equal to a quorum is required. As with every other motion, a clincher may be dissolved by a motion to suspend the rules. Six months is merely a suggested time; the board may shorten or lengthen the time as it sees fit. In order to give a new board a clean slate, the motion is not effective beyond the next regular election.

Rule 20. Renewal of Motion. A defeated motion may not be renewed at the same meeting.

Rule 21. Withdrawal of Motion. A motion may be withdrawn by the introducer at any time before it is amended or before the chair puts the motion to a vote, whichever occurs first.

Comment: Robert's Rules of Order provides that once a motion has been stated by the chair for debate, it cannot be withdrawn without the assembly's consent. Such a procedure is unnecessary for a small board.

VII. Quorum and Other Rules

Rule 22. Duty to Vote. It is the duty of each member to vote unless excused by a majority vote according to law. The board shall excuse members from voting on matters involving their own financial interest or official conduct as provided by law. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the board or by law, or the member's official conduct, as defined by the board. In all other cases, a failure to vote by a member who is physically present in the meeting, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Comment: G.S. 153A-44 provides that board members have a duty to vote, but does not state the remedy for failure to do so. Many boards record all members as voting yes on any matter put to vote unless members audibly vote no. A few boards reverse the presumption and record members as voting no unless they audibly vote yes.

Rule 23. Prohibition of Secret Voting. No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, at which time they may be destroyed.

Comment: See G.S. 143-318.13(b)

Rule 24. Action by Reference. The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

Comment: See G.S. 143-318.13(c).

Rule 25. Introduction of Ordinances, Resolutions, and Orders. A proposed ordinance shall be deemed introduced at the first meeting at which it is on the agenda and actually considered by the board and its introduction shall be recorded in the minutes.

Comment: G.S. 153A-45 provides that an ordinance may not be finally adopted at the meeting at which it is introduced except by unanimous vote. The definition of introduction therefore is important because it makes a difference in the number of votes required to adopt an ordinance. The rule assumes that a measure is introduced only when the board begins to consider the matter.

Rule 26. Adoption, Amendment, or Repeal of Ordinances.

To be adopted at the meeting where first introduced, an ordinance or any action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or other ordinance requiring a public hearing before adoption), must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority of those voting but not by all members of the board, or if the measure is not voted on at the meeting where introduced, it shall be considered at the next business meeting of the board. If the proposal receives a majority of the votes cast at the next meeting or at a meeting within 100 days of being introduced, it is adopted.

Adoption of Ordinances, Resolutions, Proclamations and Orders.

A motion shall be adopted by a majority of the votes cast for any and all resolutions, proclamations and orders. The vote shall express the sense of the board on a question or issue brought before it and shall serve as an official declaration of a particular state of fact or circumstance.

Comment: See G.S. 153A-45. See also G.S. 153A-46 for requirements for granting franchises.

Rule 27. Quorum. A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board

may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

Comment: See G.S. 153A-43. Compelling the attendance of a member by ordering the sheriff to take the person into custody is an extraordinary remedy intended for use when a member obstinately refuses to attend meetings for the purpose of preventing action on a proposal. If the board contemplates using this power, it should give the absent members notice that their attendance is required by the majority and may be compelled in this manner.

Rule 28. Public Hearings. Public hearings required by law or deemed advisable by the board shall be advertised per legal requirements and staff shall set forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the presiding officer shall entertain or make a motion to end the hearing or adjourn the public hearing to another board meeting, or vote on the item. The board shall thereafter resume the regular order of business.

Anyone wishing to speak during a public hearing must first provide his or her name and address to the Clerk to the Board.

Comment: G.S. 153A-52 provides that public hearings may be held anywhere within the county and gives the board authority to adopt rules governing the hearings.

Rule 29. Quorum at Public Hearings. A quorum of the board shall be required at all public hearings required by law.

Comment: G.S. 153A-52 implies that a quorum of governing board members is necessary for a public hearing by providing that a hearing shall be deferred to the next business meeting if a quorum is not present at the originally scheduled time. However, if the board decided to hold a public hearing not required by law to gather a consensus of public opinion on an issue, the hearing could be held at several different sites, with a few members at each site.

Rule 30. Minutes. Minutes shall be kept of all board meetings. Minutes will be presented to the board on the business meeting agenda. Substantive changes, including changes in content, will be made in open session. Other changes may be provided to the Clerk to the Board.

The exact wording of each motion and the results of each vote shall be recorded in the minutes. On the request of any board member the board shall be polled by name on any vote.

Minutes of closed sessions will be presented to the board during a closed session held under G.S. 143-318.11(a)(1). Motion to go into closed session should state that one purpose of the session is “to prevent the disclosure of information that is made privileged or confidential by G.S. 143-318.10(e).”

Minutes and general accounts of closed sessions shall be considered sealed automatically. Closed session records shall be unsealed by board action if and when the closed session’s purpose would no longer be frustrated by making these records public.

Comment: See G.S. 143-318.10(d) and the discussion of minutes in Bonnie E. Davis, *Handbook for North Carolina County Commissioners, second edition, revised*, by Joseph S. Ferrell (Chapel Hill, N.C.: Institute of Government, 1985). G.S. 143-318.11(d) provides that minutes and other records made of a closed session may be withheld from public inspection as long as such inspection would frustrate the purpose of the closed session.

Rule 31. Appointments. The board shall make appointments to the covered advisory boards and committees as provided in the Orange County Board of County Commissioners Advisory Board Policy and associated board-specific policies and as that Policy and associated policies may be amended from time to time.

Rule 32. Evaluation of Appointed Staff. The board shall evaluate the performance of the County Manager, County Attorney, and Clerk to the Board on an annual basis.

Rule 33. Amendment of the Rules. These rules may be amended at any business meeting or at any properly called special meeting that includes amendment of the rules as one of the stated

purposes of the meeting. Adoption of these rules or an amendment thereof shall require an affirmative vote equal to a quorum.

Comment: Local boards may generally amend their rules of procedure whenever they choose, unless a statute or rule of the body that created the particular board provides otherwise. To ensure that any amendments adopted reflect the will of the board majority, a vote equal to a quorum is required to approve the amendment.

Rule 34. Reference to Robert's Rules of Order. To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *Robert's Rules of Order* to resolve procedural questions.

Comment: *Robert's Rules of Order* was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is the best source of Parliamentary procedure; care should simply be taken to adjust *Robert's Rules of Order* to meet the needs of small governing boards.

Rule 35. The Clerk to the Board shall be the Sole County Officer Responsible for Presenting Documents to the Chair for Signature. The Clerk to the Board shall review all such documents with the County Manager and County Attorney before they are presented to the chair for execution.

Rule 36. The Chair shall be the Spokesperson for the Board. The chair shall be the official spokesperson for the board. In the chair's absence, the vice-chair shall be spokesperson. In the absence of the chair and vice-chair, the most senior BOCC member will be the spokesperson. This follows the standard hierarchy of board leadership. The chair may designate a board representative to speak at events where a speaker has been requested to represent the BOCC.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

Action Agenda

Item No. 6-c

SUBJECT: BOCC Boards and Commissions Assignments

DEPARTMENT: Board of Commissioners

ATTACHMENT(S):

1. Policy Governing the Selection Process of BOCC Boards/Commissions Assignments
 2. Selection Process Guide
 3. Current Boards and Commissions Listing
-

INFORMATION CONTACT:

Clerk's Office, 919-245-2130

PURPOSE: To consider selecting the boards and commissions on which Board members would like to serve during 2022.

BACKGROUND: BOCC members serve on various County and County-related boards and commissions. On an annual basis, BOCC members indicate their desire to continue serving on specific boards or commissions or their desire to make changes.

Attachment 1: Policy Governing the Selection Process of BOCC Boards/Commissions Assignments

Attachment 2: Selection Process Guide

Attachment 3: Current Boards and Commissions Listing

FINANCIAL IMPACT: There is no financial impact associated with this item.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal associated with this item.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends that the Board discuss and select the boards and commissions on which Board members would like to serve, and formally approve the assignments.

Policy Governing the Selection Process of BOCC Boards/Commissions Assignments

1. One "Save" in order of seniority (choosing one board that they currently serve on and service as an officer is not an automatic exemption):
 - If a "Save" is skipped by a BOCC member
 - The save process continues through the remaining BOCC members
 - Then, by seniority, the members who skipped are allowed one pick so that each BOCC member has one position.
 - Appointments to regional boards are limited to four -1 year terms
 - Appointments to intra-county boards are limited to two -1 year terms

The round robin process will continue as in the past below:

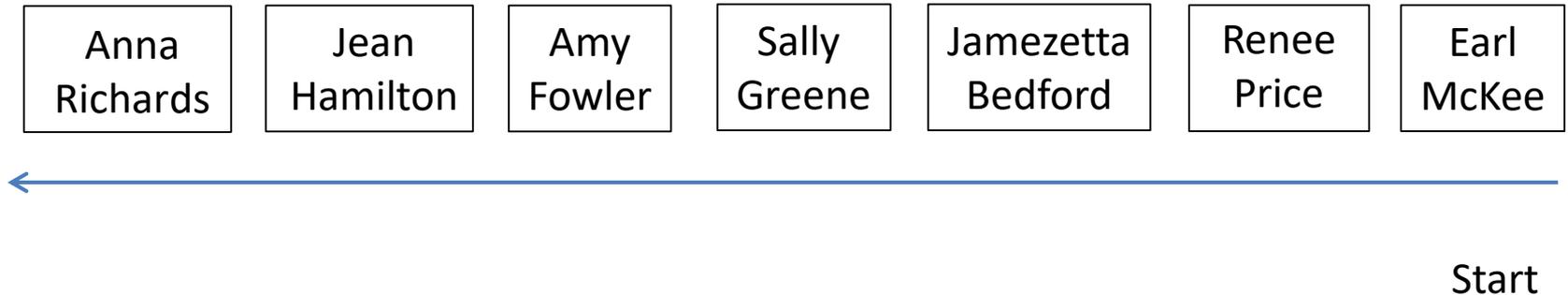
2. The junior member will then pick one board first in the first round and then least senior members of the Board will choose one board on which to serve
3. In the second round, the senior member will pick first, and then the other senior members to the least senior member will pick
4. And then it is back to the junior member.....

BOCC Boards/Commissions Assignments Selection Process Guide

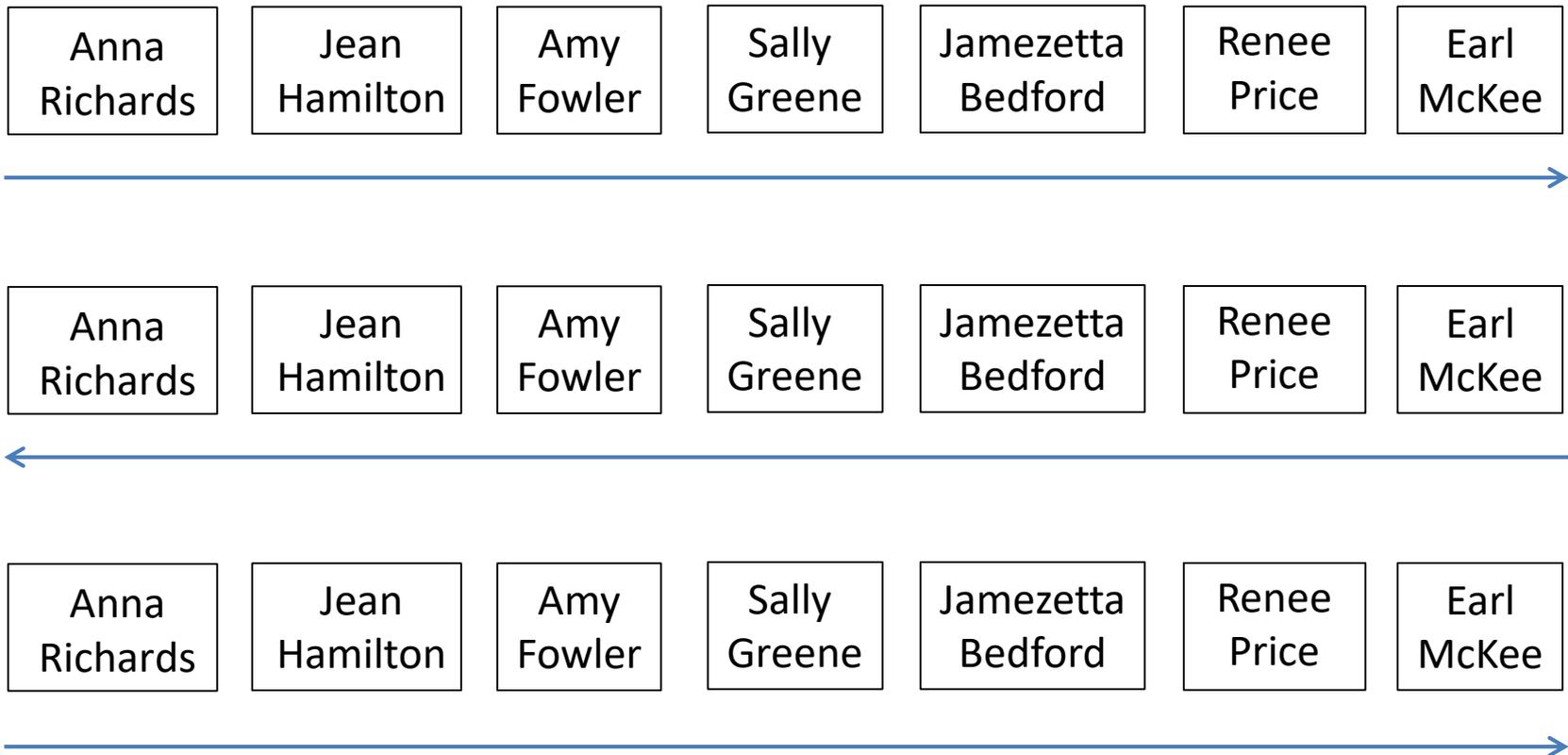
Seated BOCC Members

- One “Save” in order of seniority
- If a “Save” is skipped by a BOCC member
 - The save process continues through the remaining BOCC members
 - Then, by seniority, the members who skipped are allowed one pick so that each BOCC member has one position.
- Regional Boards – no more than 4 years
- Intra-County Boards – no more than 2 years

Save Order by Seniority



Selection Order – Reverse Seniority⁶ (after save)



Attachment 3

| Active | | | | | | | |
|---|-------------------------|-------------------------------------|-------------------|-----------------------------|---|---|------------------|
| Board Name | Board Type | Board Contact Name(s) | Meeting Frequency | Meeting Date & Time | # of Commissioners to Serve | 2021 BOCC Member | 2022 BOCC Member |
| ABC Board | Statutory; intra-county | Tony DuBois Angel Neighbours | Monthly | Third Tuesday 8:30 AM | Commissioner not required (non-voting member) | Commissioner McKee (Potentially serve Dec. 2020-Dec. 2022) | |
| Alliance Board | Statutory; regional | Veronica Ingram | Monthly | First Thursday 4:00 PM | 1 Commissioner | N/A | |
| Board of Health | Statutory; intra-county | Quintana Stewart La Toya Strange | Monthly | Fourth Wednesday 7:00 PM | 1 Commissioner | Commissioner Hamilton (Potentially serve Dec. 2020-Dec. 2022) | |
| Board of Social Services | Statutory; intra-county | Lindsey Shewmaker Nancy Coston | Monthly | Third Monday 4:00 PM | Commissioner not required, but typically 1 serves | Commissioner McKee (Potentially serve Dec. 2020-Dec. 2022) | |
| Broadband Task Force | | | | | | | |
| Burlington/Graham MPO Transportation Advisory Committee | Regional | Wannetta Mallette | ~6 times per year | Third Tuesday 5:00 PM | 2 Commissioners; 1 member, 1 alternate | Commissioner McKee-member (Potentially serve Dec. 2020-Dec. 2024) Commissioner Bedford-alternate (Potentially serve Dec. 2018-Dec. 2022) | |
| Climate Council | Intra-county | Steve Arndt | Monthly | Third Thursday 3:00 PM | 1 Commissioner | Commissioner Bedford (Potentially serve through Dec. 2023) | |
| Community Home Trust Board of Directors | Intra-county | Kimberly Sanchez | Monthly | Second Thursday 6:00 PM | 1 Commissioner | Commissioner McKee Potentially serve through Dec. 2023) | |
| Cooperative Extension Leadership Council | Intra-county | Tyrone Fisher | Quarterly | | 1 Commissioner | Commissioner Bedford (Potentially serve Dec. 2020-Dec. 2022) | |

| Board Name | Board Type | Board Contact Name(s) | Meeting Frequency | Meeting Date & Time | # of Commissioners to Serve | 2021 BOCC Member | 2022 BOCC Member |
|---|--------------|-------------------------------|-------------------|--|---|--|------------------|
| Durham- Chapel Hill – Carrboro Metropolitan Planning Organization Board (Formerly called the Transportation Advisory Committee) | Regional | Aaron Cain Brian Rhodes | Monthly | Second Wednesday 9:00 AM | 2 Commissioners; 1 member, 1 alternate | Commissioner Bedford-member (Potentially serve Dec. 2020-Dec. 2024) Commissioner Greene-alternate (Potentially serve Dec. 2020-Dec. 2024) | |
| Durham Tech Board of Trustees | Intra-county | Toni R. Brown | ~6 times per year | Fourth Tuesday (typically) 3:00 PM | 1 Commissioner | Chair Price (Potentially serve through Dec. 2023) | |
| Durham-Orange-Chapel Hill Work Group | Regional | Scott Whiteman Tom Altieri | Quarterly | TBD | 2 Commissioners | Commissioner Fowler (Potentially serve Dec, 2020-Dec. 2024) Commissioner Bedford (Potentially serve Dec. 2020-Dec. 2024) | |
| Family Success Alliance Advisory Council | Intra-county | Meredith McMonigle | ~6 times per year | Mondays 1:00 PM | 1 Commissioner (decided at 10/7/21 work session) | Commissioner Greene (Potentially serve Dec. 2019-Dec. 2021) Commissioner Bedford (Potentially serve Dec. 2019-Dec. 2021) | |
| Fire Chief's Association of Orange County | Intra-county | Jeff Cabe | Bi-monthly | First Wednesday 7:00 pm | Commissioner not required, but can attend as guest | Commissioner McKee (Potentially serve Dec. 2020-Dec. 2022) | |
| Food Council | Intra-county | Ashley Heger | Bi-monthly | First Monday 4:30 PM | 1 Commissioner | Commissioner Greene (Potentially serve Dec. 2020-Dec. 2022) | |
| Go Triangle Board of Trustees | Regional | Michelle Dawson | Monthly | Third Wednesday 12:00 PM | 1 Commissioner | Commissioner Price (Potentially serve Dec. 2020-Dec. 2024) | |

| Board Name | Board Type | Board Contact Name(s) | Meeting Frequency | Meeting Date & Time | # of Commissioners to Serve | 2021 BOCC Member | 2022 BOCC Member |
|--|--------------|-----------------------|-----------------------------|--|---|---|------------------|
| Go Triangle Special Tax Board | Regional | Michelle Dawson | Once a year; more if needed | Meets once each January and more if needed | 2 Commissioners | Commissioner McKee (Potentially serve Dec. 2019-Dec. 2023) Commissioner Fowler (Potentially serve Dec. 2020-Dec. 2024) | |
| Go Triangle Transit Advisory Committee | Regional | Michelle Dawson | ~6 times per year | TBD | 1 Commissioner | Commissioner Bedford (Potentially serve Dec. 2019-Dec. 2023) | |
| Healthy Carolinians | Intra-county | Ashley Rawlinson | Quarterly | TBD | Commissioner not required; often same Commissioner as serves on the Board of Health | Commissioner Hamilton (Potentially serve Dec. 2020-Dec. 2022) | |
| Intergovernmental Parks Work Group | Intra-county | Marabeth Carr | Quarterly | Wednesdays 5:30 PM | 2 Commissioners; 1 member, 1 alternate | Commissioner Hamilton-member (Potentially serve Dec. 2020-Dec. 2022) Commissioner Fowler-alternate (Potentially serve Dec. 2020-Dec. 2022) | |
| JCPC (Orange County Juvenile Crime Prevention Council) | Intra-county | Rebecca Rapoza | Bi-monthly | First Friday 12:00 PM | 1 Commissioner | Commissioner Fowler (Potentially serve Dec. 2020-Dec. 2022) | |
| Joint Public Safety Training Facility Work Group | Intra-county | Kirby Saunders | As needed | TBD | 2 Commissioners | Commissioner McKee (Potentially serve Dec. 2020-Dec. 2022) Commissioner Hamilton (Potentially serve Dec. 2020-Dec. 2022) | |
| Jordan Lake One Water Association-Elected Officials | Regional | Maya Cough-Schulze | Bi-monthly | Third Wednesday 9:00 AM | 1 Commissioner | Commissioner Greene (Potentially serve through Dec. 2025) | |

| Board Name | Board Type | Board Contact Name(s) | Meeting Frequency | Meeting Date & Time | # of Commissioners to Serve | 2021 BOCC Member | 2022 BOCC Member |
|---|--------------|---------------------------------|-------------------|---------------------------|-----------------------------|--|------------------|
| Justice Advisory Council | Intra-county | Caitlin Fenhagen | Quarterly | Fridays 3:30 PM | 2 Commissioners | Commissioner Price (serves through Dec. 2021) Commissioner Greene (Potentially serve through Dec. 2023) | |
| Legislative Issues Work Group (LIWG) | Internal | Greg Wilder | As needed | TBD | 2 Commissioners | Commissioner Price (serves through Dec. 2021) Commissioner Fowler (serves through Dec. 2021) | |
| North/South Bus Rapid Transit (N/S BRT) policy committee | Intra-county | Matt Cecil Brian Litchfield | As needed | As needed | 1 Commissioner | Commissioner McKee (potentially serve Dec. 2020-Dec. 2022) | |
| Orange County Behavioral Health Work Group | Intra-county | Caitlin Fenhagen | Bi-monthly | 3:30 PM | 1 Commissioner | Commissioner Fowler (Potentially serve Dec. 2020-Dec. 2022) | |
| Orange County Local Government Affordable Housing Collaborative | Intra-county | Erika Brandt | Monthly | Second Tuesday 6:00 PM | 1 Commissioner | Commissioner Greene (Potentially serve Dec. 2020-Dec. 2022) | |
| Orange County Partnership for Young Children | Intra-county | Robin Pulver | Bi-monthly | Last Wednesday 8:30 AM | 1 Commissioner | Commissioner Hamilton (Potentially serve Dec. 2020-Dec. 2022) | |
| Orange County Partnership to End Homelessness | Intra-county | Rachel Waltz | Monthly | Third Monday 6:00 PM | 1 Commissioner | Commissioner Bedford (Potentially serve Dec. 2020-Dec. 2022) | |
| Piedmont Food Processing Center | Regional | Eric Hallman | ~4 times per year | TBD | 1 Commissioner | Commissioner Greene (Potentially serve Dec. 2020-Dec. 2024) | |
| Small Business Loan Program | Intra-county | Amanda Garner Steve Brantley | As needed | As needed | 1 Commissioner | Commissioner Fowler (Potentially serve Dec. 2020-Dec. 2022) | |

| Board Name | Board Type | Board Contact Name(s) | Meeting Frequency | Meeting Date & Time | # of Commissioners to Serve | 2021 BOCC Member | 2022 BOCC Member |
|---|--------------|-----------------------|-------------------|-----------------------------|--|--|------------------|
| Solid Waste Advisory Group (SWAG) | Intra-county | Robert Williams | As needed | As needed | 2 Commissioners | Commissioner Bedford (Potentially serve Dec. 2020-Dec. 2022) Commissioner Hamilton (Potentially serve Dec. 2020-Dec. 2022) | |
| Strategic Communications Work Group | Internal | Todd McGee | As needed | As needed | 2 Commissioners | Commissioner Hamilton (Potentially serve through Dec. 2023) Commissioner Price (Potentially serve Dec. 2020-Dec. 2022) | |
| The Chamber For a Greater Chapel Hill-Carrboro Board of Directors | Intra-county | Katie Loovis | Monthly | Third Thursday 8:30 AM | 1 Commissioner | Commissioner Hamilton (Potentially serve Dec. 2020-Dec. 2022) | |
| Transit Planning Committee | Intra-local | Meredith Kern | As needed | As needed | 2 Commissioners | Commissioner Greene (Potentially serve Dec. 2019-Dec. 2023) Commissioner Fowler (Potentially serve through Dec. 2025) | |
| Triangle Area Rural Planning Organization (TARPO) Transportation Advisory Committee | Regional | Tom Ten Eyck | Bi-monthly | Second Thursday 12:00 PM | 2 Commissioners; 1 member, 1 alternate | Commissioner Fowler-member (Potentially serve Dec. 2020-Dec. 2024) Commissioner Price-alternate (Potentially serve Dec. 2020-Dec. 2024) | |

| Board Name | Board Type | Board Contact Name(s) | Meeting Frequency | Meeting Date & Time | # of Commissioners to Serve | 2021 BOCC Member | 2022 BOCC Member |
|--|--------------|------------------------------------|-------------------|----------------------------|--|---|---|
| Triangle J. Council of Governments (TJCOG) | Regional | Renee Boyette | Monthly | Last Wednesday 6:00 PM | 2 Commissioners; 1 member, 1 alternate | Commissioner Greene-member (Potentially serve Dec. 2018-Dec. 2022) Commissioner Price-alternate (potentially serve Dec. 2020-Dec. 2024) | |
| Upper Neuse River Basin Association | Regional | Haywood M. Phthisic, III | Bi-monthly | Third Wednesday 9:30 AM | 2 Commissioners; 1 member, 1 alternate | Commissioner Bedford-member (Potentially serve Dec. 2020-Dec. 2024) Commissioner McKee-alternate (Potentially serve Dec. 2020-Dec. 2024) | |
| Visitor's Bureau Advisory Board | Intra-county | Laurie Paolicelli Leslie Wilcox | Monthly | Third Wednesday 8:00 AM | 1 Commissioner | Commissioner Greene (Potentially serve Dec. 2020-Dec. 2022) | |
| Inactive | | | | | | | |
| Chatham Orange Joint Planning Task Force | Regional | Perdita Holtz | ~3 times per year | TBD | 2 Commissioners; 1 member, 1 alternate | VACANT-Member (can serve up to 4 years) Commissioner Hamilton-Alternate (Potentially serve Dec. 2020-Dec. 2024) | |
| Other Active Task Forces/Work Groups For Reference | | | | | | | |
| Broadband Task Force | Intra-county | Jim Northrup | Bi-monthly | Wednesdays 5:30 PM | 2 Commissioners | Commissioner McKee Commissioner Greene | Commissioner McKee Commissioner Greene |
| Capital Needs Work Group | Intra-county | Rebecca Crawford | TBD | TBD | 1 Commissioner | Commissioner Hamilton Commissioner Price | Commissioner Hamilton Commissioner Price |
| Library Services Task Force | Intra-county | County Manager's Office | TBD | TBD | 1 Commissioner | Commissioner Fowler | Commissioner Fowler |

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No. 8-a**

SUBJECT: Minutes

DEPARTMENT: Board of County Commissioners

ATTACHMENT(S):
Draft Minutes (Under Separate Cover)

INFORMATION CONTACT:
Laura Jensen, Clerk to the Board, 919-
245-2130

PURPOSE: To correct and/or approve the draft minutes as submitted by the Clerk to the Board as listed below.

BACKGROUND: In accordance with 153A-42 of the General Statutes, the Governing Board has the legal duty to approve all minutes that are entered into the official journal of the Board's proceedings.

Attachment 1: November 11, 2021 Work Session

FINANCIAL IMPACT: There is no financial impact associated with this item.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve minutes as presented or as amended.

MINUTES
ORANGE COUNTY
BOARD OF COMMISSIONERS
WORK SESSION
November 11, 2021
7:00 p.m.

The Orange County Board of Commissioners met for a Work Session on Thursday, November 11, 2021 at 7:00 p.m. at the Whitted Building.

COUNTY COMMISSIONERS PRESENT: Chair Renee Price, Vice Chair Jamezetta Bedford, and Commissioners Amy Fowler, Sally Greene, Jean Hamilton, Earl McKee, and Anna Richards

COUNTY COMMISSIONERS ABSENT: None

COUNTY ATTORNEYS PRESENT: John Roberts

COUNTY STAFF PRESENT: County Manager Bonnie Hammersley, Deputy County Manager Travis Myren, and Clerk to the Board Laura Jensen. (All other staff members will be identified appropriately below)

Chair Price called the Board of County Commissioners (BOCC) meeting to order at 7:00 p.m. She said this is the first time this board has held a public meeting in person since the start of the pandemic.

Chair Price said the County Attorney requested the addition of a closed session at the end of the meeting.

A motion was made by Commissioner Bedford, seconded by Commissioner Hamilton, to add a closed session to the agenda, pursuant to NC General Statute § 143-318.11(a)(3) "To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body."

VOTE: Unanimous

1. Food Systems Community & Economic Development Update

The board received a presentation and discussed regional food and agricultural systems status, COVID effects, current initiatives, trends and directions.

BACKGROUND:

There has been growing interest in recent years around local and regional food systems and the extent to which a more proximate, deep, diverse, and equitable system is possible. The recent pandemic has further illuminated issues, challenges, and also opportunities within the economic, social, and environmental aspects of food systems. North Carolina, and Orange County in particular, has led many advances over the years in sustainable food systems and agriculture. In the current environment, values and demand are changing rapidly, creating the need for effective responses in policy, funding, education, and advocacy. Informed collaborative regional efforts, based on trusted community relationships, are critical in the development of more resilient food systems.

Mike Ortosky, Community Development Agent – Orange County Cooperative Extension, introduced the item and made the following PowerPoint presentation:

Slide #1

FOOD SYSTEMS - COMMUNITY & ECONOMIC DEVELOPMENT

MIKE ORTOSKY - COMMUNITY DEVELOPMENT AGENT - NC COOPERATIVE EXTENSION



1
2
3

Slide #2

BACKGROUND

- This presentation is about community & economic development that is based in local food and agriculture – it is about relationship
- Throughout almost all of our history as human beings we've had a very close relationship with our food; both physically and functionally.
- Most recently with the advent of industrialized transportation, post-war suburban sprawl, zoning of separate land uses, and the Interstate Highway System, food production in the US has been excluded and distanced from our communities (**for the first time in the history of humanity**).
- Amidst a divided PLEEGS landscape we have a growing desire/demand for a more proximate, diverse, and equitable food system, and the closer social relationships that come with it. The pandemic has critically illuminated fragilities and inequities in our food system, exposing the need and opportunity for change. How do we reconcile that disconnect?
- We are experiencing a unique time in history. Awareness and values are changing, demand is changing and our response must also change.

4
5
6

Slide #3

VALUE-ADDED FOOD INDUSTRY

| |
|--------------|
| Product |
| Processing |
| Marketing |
| Distribution |
| Retail Sales |

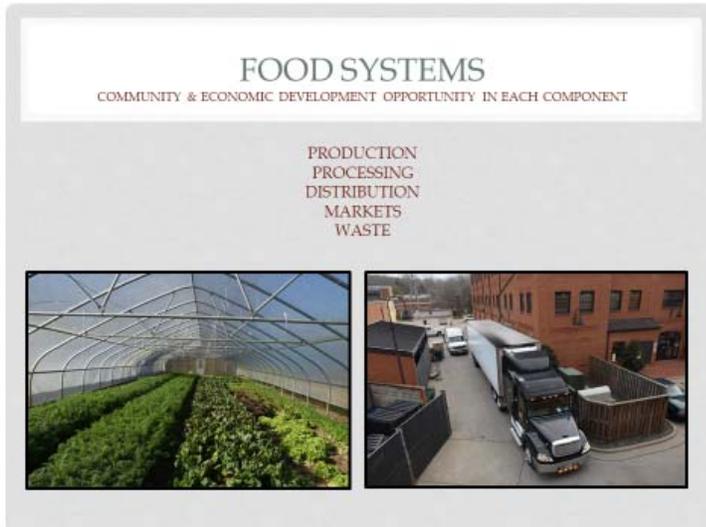


7

1 Mike Ortosky explained the five parts of the value-added food industry: product,
2 processing, marketing, distribution, and retail sales. He resumed the PowerPoint presentation:

3
4

Slide #4



5
6

7 Mike Ortosky said there is opportunity in each of the major components of the food
8 system. He resumed the PowerPoint presentation:

9

10 Slide #5



11
12
13

1 Slide #6

TRENDS

- **FOOD SYSTEMS AS COMPREHENSIVE INDUSTRY**
- **COMMUNITY & ECONOMIC DEVELOPMENT OPPORTUNITY**
- **CHANGING SCALES & TECHNOLOGIES**
 - CONTROLLED ENVIRONMENT AGRICULTURE
 - CELLULAR AGRICULTURE
- **FOOD & LAND PLANNING**
- **GREATER INTEREST IN FUNDING ALL ASPECTS OF FOOD SYSTEM**
- **HEIGHTENED AWARENESS OF INEFFICIENCIES & INEQUITIES IN FOOD SYSTEM**
- **COVID**

2
3
4
5
6
7
8
9

Mike Ortosky said an example of controlled environment agriculture could be as simple as a greenhouse, or something as high tech as a “dark environment” with more controlled variables. He said cellular agriculture could be milk made by cell tissues, or the impossible burger, for example. He said food and land planning trends are to bring food closer to people. He resumed the PowerPoint presentation:

10 Slide #7

COVID

MAJOR DISRUPTION IN MARKET, DEMAND, AND SUPPLY CHAINS

food service: restaurants & institutions (hospitals, schools, elder care)
consumer: grocery & convenience stores

ILLUMINATED VULNERABLE PORTIONS OF INDUSTRIAL FOOD SYSTEM

“just-in-time” distribution - lack of depth & adaptability (ballast)

ILLUMINATED INEQUITIES ON THE “HUMAN SIDE”

ag & food service workers / equitable access

AFFECTED OUR CONCEPTS OF FOOD, HEALTH, SOCIAL INTERACTION, COMMUNITY, HOW WE VALUE WORKERS, AND WORK ITSELF – Robert Reich Commentary

11
12
13

1 Slide #8



2
3
4
5
6
7

Mike Ortosky reviewed the various resources and initiatives available in the area for supporting the local food economy. He resumed the PowerPoint presentation:

Slide #9



8
9
10
11
12
13
14
15

Mike Ortosky said a need in the food systems infrastructure is space for growing businesses to work from as they develop. He said there quite a bit of site development going on currently. He said it is desirable to keep local businesses local and growing. He resumed the PowerPoint presentation:

1 Slide #10

OPPORTUNITY BEYOND COVID

- **Better food system**
 - Proximate
 - Deep
 - Diverse. (diversity = resiliency)
 - Equitable
- **Social Implications**
 - Reconnection
 - Food
 - Earth
 - One another
- **Power of Proximity**

2
3
4

Slide #11

MIKE ORTOSKY

Orange County Cooperative Extension
 Hillsborough, NC
 919-245-2336 o
 919-270-6528 c

jmortosk@ncsu.edu

5
6

7 James Watts, operations manager at Weaver Street Market, said he wanted about
 8 symptoms. He said he was interviewed about food inflation. He said food inflation is coming in,
 9 but he has discovered that local food inflation is lower when one transacts one's business
 10 locally. He said it is a symptom of something that could be developed. He said Orange County
 11 Schools asked him if Weaver Street has spare cold storage space. He said this question is a
 12 symptom of a food system that has been built with vulnerabilities. He said infrastructure and
 13 capacity need to be built to adapt to when things happen out of our control.

14 James Watts said he met with the diversity and inclusion manager at Weaver Street
 15 Market. She said black and brown people own less than 2% of farmland, and this number has
 16 gone down every year over the last century.

17 James Watts said he was at the Piedmont Progressive Farmers Cooperative Meeting in
 18 Yanceyville prior to coming to the work session. He said they are trying to come together to
 19 build something better through their farming of chicken and eggs.

20 James Watts said Weaver Street Market can participate by creating more durable and
 21 complete visions. He said he is a willing collaborator to create a more durable and effective
 22 local and regional food system. He said it needs to be done to create more equitable access.

1 He said the Board of Commissioners (BOCC) can assist in creating a scorecard to hold partners
2 accountable. He said measurements should be made in access to food in the most efficient
3 way, coming from the food economy around us. He said he wanted the Board of
4 Commissioners to challenge partners.

5 Mike Ortosky thanked James Watts for his comments and introduced Eric Hallman from
6 the Piedmont Food Processing Center (PFPC).

7 Eric Hallman acknowledged Veterans Day and thanked all veterans for their service.

8 Eric Hallman said Orange County's leadership is needed in the area of food systems
9 and making it a priority. He said Orange County is the envy of all its neighbors and is a leader
10 in the local food economy, but others are catching on. He said Weaver Street is the largest co-
11 operative grocery store in the southeast. He said there is more to be done and the BOCC
12 needs to lead.

13 Eric Hallman said the Piedmont Food Processing Center is a co-working space for food
14 companies. He said it gives companies the opportunity to start working without large capital
15 investment. He said David Stancil, Department of Environment, Agriculture, Parks and
16 Recreation (DEAPR) Director, had the vision to get the center started. He said the initial group
17 put together several grants to pay for the center. He said the center is self-sustaining and does
18 not get funding from Orange County. He said there are currently 65 companies at PFPC, and
19 75% of businesses that started with the center are still in business. He said PFPC is a huge
20 success, and he is looking to the county for more leadership to keep moving forward in this
21 opportunity to remain as a leader in this space.

22 Mike Ortosky introduced Sue Ellsworth, founder of the WE Power Food.

23 Sue Ellsworth said WE Power focuses on the specific needs of women food
24 entrepreneurs, and is lead by women, for women. She said WE Power members include a
25 variety of members, and problem solves to build a system to support its members. She said the
26 environment is a judgment free space that empowers its members to grow. She said that WE
27 Power is a statewide organization that connects through social media and also has a monthly
28 meeting with guest speakers. She said in 2021, WE Power made its debut at the Food
29 Incubation Summit, the largest network of kitchen incubators and networks in the world. She
30 said WE Power is poised to be a leader in this area and hopes to grow to a national
31 organization.

32 Commissioner Greene asked if the genesis of this group could be shared, and why
33 women are the focus.

34 Sue Ellsworth said she has been at PFPC for several years, and noticed that there were
35 many female owned companies that seemed to disappear and she wondered what happened.
36 She said she heard many reasons that women were closing their businesses, even successful
37 ones. She said family obligations and funding were two main issues. She said she started
38 round table discussions, and really listened to the needs, which lead to the creation of WE
39 Power.

40 Mike Ortosky introduced Mart Bumgartner from the Orange County Extension.

41 Mart Bumgartner described the purpose of the NC Extension. He said it provides
42 information to help people. He said he is the crops and horticulture agent, working with famers
43 and homeowners, and is responsible for the Master Gardner program. He said the Master
44 Gardner program won an international award for the stormwater runoff garden between the
45 courthouse and farmer's market in Hillsborough. He said is also the Orange County pesticide
46 coordinator, and holds mandatory on going education training for farmers. He said some were
47 done over Zoom during the pandemic, and an in-person training was held in September 2021.
48 He said the pandemic has changed the landscape for farmers and many have been creative to
49 stay afloat using CSAs and online orders.

50 Mart Bumgartner said the pandemic forced suppliers to develop new ways to meet
51 customers. He said in 2020, Cooperative Extension used \$26,000 to purchase products from

1 local farmers, such as cheese, apples, duck, milk, potatoes, squash, ice cream, collards, and
2 muscadines. He said they supplemented food boxes given away at the holidays.

3 Mart Bumgartner said he manages the community garden grant program. He said he
4 also assists farmers with pest control; coordinating meetings around the state to make sure
5 farmers are well informed, while also assisting in research on soils and new pests. He said he
6 assists the Northern Piedmont Farm School in teaching and trainings. He said Orange County
7 will host the graduation this year and using as much local foods and businesses as possible.

8 Commissioner Bedford asked if Bumgartner is involved with the garden at the Bonnie B.
9 Davis Environment and Agriculture Center.

10 Mart Bumgartner said yes, he is working with the 4-H on this project.

11 Mike Ortosky thanked Mart Bumgartner and introduced Ashley Heger, Orange County
12 Food Council Coordinator.

13 Ashley Heger introduced herself and said she works with the Orange County Manager's
14 Office. She said she would like to reimagine the food economy, and wants to invite the county
15 to be even more involved. She said the food council is trying to do more equity-based work.
16 She made the following PowerPoint presentation:

17
18 Slide #1



19
20
21 Slide #2



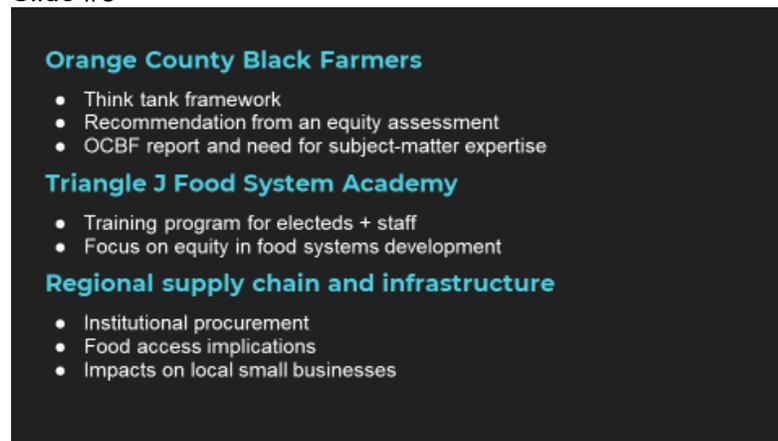
22
23
24 Ashley Heger described the priorities and primary concerns for the food council. She
25 said the Council wants to focus on people who have been historically marginalized. She said
26 the Council is assessing what assets exist in the region and locally. She said many local people
27 make a living off of food, but some of these same individuals are often not recognized or deeply

1 connected to institutional support. She said existing assets need to be considered along, with
 2 the return on investment around community self determination and community driven economic
 3 development. She said it can feel difficult on the institutional side for how to reach people who
 4 do not have access to resources on grants, small business loans, and information. She said
 5 one idea to address this difficulty is to give funding to community organizations who can then
 6 disburse the funds, such as EmPOWERment, Inc.

7 Ashley Heger said a common question from people in the food economy is about access
 8 to cold storage. She said there are infrastructural changes that could be made to benefit the
 9 community and economic development.

10 Ashley Heger said the Council is conducting a new food assessment, and collecting best
 11 practices from those doing the work on a daily basis. She resumed the PowerPoint
 12 presentation:

13
 14 Slide #3



15
 16
 17 Ashley Heger said in 2020, the Orange County Black Farmers Think Tank was created.
 18 She said the food system is not doing anything to disrupt institutional racism, and the county
 19 was encouraged to hear from actual black farmers and learn from them. She said it is important
 20 to build real relationships between various parties to gain understanding and trust between the
 21 marginalized and institutions. She said the bridges have to be built on a larger scale than just
 22 person-to-person. She said the food council is working with Triangle J on these issues.

23 Ashley Heger said in addition to cold storage, people have asked for shared meeting
 24 space, in order to work together more. She resumed the PowerPoint presentation:

25
 26

1 Slide #4

2
3

4 Ashley Heger said economic and community development is not a zero sum game. She
5 said everyone needs to practical yet value driven in the approach to these needs.

6 Commissioner Fowler said it seems like the needs are for cold storage and shared
7 meeting space. She referred to asset mapping, food assessment, and best practices, and
8 asked if this research has already been completed. She said she interested in seeing this
9 information.

10 Ashley Heger said the asset mapping has not yet happened, but there will be a report in
11 the spring on food assessment. She said she would like to have a work session with the BOCC
12 is the spring.

13 Ashley Heger said the food council has hired community consultants with local expertise
14 to perform the food assessment, which is a best practice. She said those with lived experience
15 are at the center of the work. She said the assessment is going to document best practices and
16 the Council will report back to the BOCC. She said the Council plans to host a community
17 rooted economic development training for elected officials.

18 Commissioner Bedford said one of the interesting facts in the budget was food needs for
19 seniors increased during the pandemic. She said she thinks that hidden hunger was uncovered
20 during the pandemic, and she asked Ashley Heger if that would be part of the study.

21 Ashley Heger said this is not currently in the budget for the food assessment, but that if
22 more funds were available the Council would expand the scope. She said the Council will look
23 at the impact of county investment in food access. She said she will talk with partners that work
24 with seniors, and would bring the topic back to the assessment team.

25 Commissioner Bedford clarified that the scope will depend on who the Council has
26 recruited as consultants.

27 Ashley Heger said the focus of the assessment is building relationships with those
28 impacted by systemic racism, with the notion that if the most oppressive situations are
29 addressed, then other issues will be as well.

30 Chair Price said when she worked with farmers in the deep south she found great
31 success by having a 'farmers first' approach. She said farmers received the same respect as
32 the university level researchers. She said everyone taught each other.

33 Mike Ortosky said it is about the lived experience and making sure that relationships are
34 built in the community. He said continually growing the commitment to inclusion is an ongoing
35 part of this effort. He said it is challenging, but everyone is committed to it.

1 Mike Ortosky said the BOCC has heard a lot of information this evening, and he and his
2 colleagues are not seeking funding or policy change, but rather awareness and education. He
3 said this is an opportunity to continue to lead and make impactful changes.

4 Chair Price asked Mart Bumgartner if he could identify the federal funding provided to
5 put produce in boxes.

6 Mart Bumgartner said it is part of the Covid recovery program, and is called the ESF-11
7 initiative.

8 Commissioner Fowler asked Eric Hallman if there is a limit on how long members can
9 participate at PFPC, is the program full at this time, and how do people apply to be involved.

10 Eric Hallman said there is no time limit for staying at PFPC, and people move on as they
11 need more room. He said there is no residency requirement, and people come from Winston
12 Salem to Raleigh, and all benefit Orange County. He said they currently have 65 clients. He
13 said demand has grown during the pandemic, and they are trying to find more ways to squeeze
14 people in.

15 Commissioner Fowler said if they are almost full, it sounds like it might be time to grow
16 the facility. She asked if there might be some businesses ready to transition out of the center.

17 Eric Hallman said some of the members are in the food truck industry, and they need a
18 commercial kitchen to operate, and PFPC serves this purpose. He said there is a need for a
19 space for members to grow to after starting at the center. He said 100,000 square foot facility
20 would be great with some shared space, which businesses can graduate to from PFPC. He
21 said nothing like this exists.

22 Commissioner Fowler asked if there are plans to apply for funding for some of these
23 infrastructure needs.

24 Eric Hallman said they are leading the food section of the Build Back Better grant. He
25 said they will put together a grant proposal in the spring for \$25-100 million to be used
26 throughout the state to build out infrastructure. He said if there was money they would build a
27 food campus.

28 Commissioner Fowler clarified that there is no residency requirement, but asked if all
29 members were from North Carolina.

30 Eric Hallman said it is mostly North Carolinians, with the occasional Virginian.

31 Commissioner McKee asked Ashley Heger about data for connecting Orange County
32 farmers to markets. He said he is not seeing the results he expected from when the Council
33 was created, and he is not hearing commercial farmers talk about receiving any positive impacts
34 from the food council.

35 Ashley Heger clarified that Commissioner McKee was looking for metrics.

36 Commissioner McKee said he is concerned about farmers operating on a thin margin,
37 and the work being done is at a 30,000-foot level, as opposed to directly impacting farmers and
38 their survival.

39 Ashley Heger said the Council provided \$15,000 to fund the Black Farmers Think Thank
40 and make it easier for them to meet. She said the Orange County Black Farmers provided
41 training to new farmers for going to markets.

42 Ashley Heger said the Council is working on an online platform called Fresh Fire which
43 will allow farmers to list their produce on a website, which food retailers could access to see
44 what is available. She said the idea would be for the county to support that platform to bring
45 farmers and retailers together.

46 Chair Price suggested that Ashley Heger put together a report in the spring on the
47 impact of Fresh Fire.

48 Commissioner McKee asked James Watts if Weaver Street Market pays a premium for
49 local products.

50 James Watts said yes, and Weaver Street Market has done this since they opened in
51 1988. He said it is in recognition of the needs of local farmers to thrive, which is also important

1 to the market. He gave an example of an egg producer, which Weaver Street Market pays
2 140% of market rate. He said it is important for the market to build relationships to help farmers
3 get the resources they need to be successful.

4 Commissioner McKee said that type of relationship with stores is important to farmers.
5 He said it is important to connect the producer to the buyer.

6 Chair Price said she thinks Ashley Heger and James Watts are doing this.

7 James Watts said the key to this is building vibrancy and capacity for a farmer to build
8 institutional sales components to their farming. He said he wants to see a more diverse
9 economy available to a wider and more diverse group of farmers. He said mistakes will be
10 made, but they keep at it.

11 Commissioner McKee said the same is true for farmers.

12 Commissioner Richards said she did not hear specifics on whose job it is to address the
13 reimagining of the system. She asked if anyone is doing that work. She said she was
14 expecting to hear that connected to the economic development area.

15 Mike Ortosky said a number of people are focused on these issues. He said the
16 struggle is the cost of food being too high and wanting to pay farmers more. He said farm fresh
17 food is very expensive, and the system incentivizes buying from large grocery stores. He said
18 former Commissioner Jacobs led an effort to bring Good Agricultural Practices (GAP)
19 certification to Orange County. He said the idea was that anyone selling to an institution
20 (schools, etc.) had to be GAP certified. He said he thought there would be a lot of demand, but
21 there are almost no GAP certified farmers in Orange County. He said direct sales farmers do
22 not to be GAP certified to sell at local farmers markets or to larger producers. He said many
23 years ago, farmers could make a living on farms about 50-100 acres, but that is not true
24 anymore. He said it is easier to sell at Weaver Street Market than it is at the school system. He
25 said there is not a lot of farming in the middle. He said making a living in farming is very difficult,
26 and this comes partly from an adjustment of cultural values. He said he hopes this can change
27 through the building of regional infrastructure and development of relationships with local
28 institutions to become buyers of the food.

29 Commissioner Richards said she wanted to know if there is a plan is to address the
30 problems and who is working on that.

31 Ashley Heger said part of reimagining is having those with lived expertise to make these
32 plans. She said the Council is collecting data and hopes to share this information in the spring.
33 She said she could provide more information that other food groups in the state have prepared
34 on the needs and the costs of addressing needs.

35 Mike Ortosky said that it is his job, it is Ashley Heger's job, and economic development's
36 job to create the plan. He said it might be time to create a regional community and economic
37 development plan, primarily crafted by people who actually do the work everyday. He said very
38 specific action items are needed.

39 Commissioner Hamilton thanked the group for giving an overview of the complexity of
40 the problem. She said the board has to prioritize the use of limited resources. She said she will
41 prioritize based on values, the provision of services to the most vulnerable and economic
42 development. She said she wants to meet the needs of the most hungry, and know the statistics
43 and barriers involved. She said she wants to build resiliency in the food system, and the
44 pandemic has highlighted issues here. She said she wants to address systemic racism, and the
45 lack of black farmers in the community. She said she wants to consider how to build
46 relationships, and support existing farmers. She said there is also the question of the role of the
47 food system in economic development at large. She said these are all different areas that
48 require data for intervention and to track success and failures. She said the data needs to be
49 specific, and she hopes to get closer to this in the next presentation.

50 Mike Ortosky said the discussion tonight was to frame the topic, and he would like to
51 come back with more information and data and a larger plan.

1 Commissioner Greene thanked the group for the presentation. She said this is the first
2 time the board has had a work session focused on the agriculture and food economy. She said
3 the group feels like the different spokes of a wheel, and the board would like to see the wheel
4 that uses a holistic approach to move the topic forward. She said agricultural tourism is another
5 important topic to consider.

6 Mike Ortosky said agri-tourism is very popular. He thanked the presenters and said they
7 really wanted to hear the questions from the BOCC so they could fill in the gaps with answers
8 and data.

9 Chair Price thanked the group for the presentation, and said the BOCC is committed to
10 being leader partners. She said it would be good to hear from the group in the spring. She said
11 she was glad to hear them mention community economic development. She said Orange
12 County used to be a dairy community and to get new farmers in is a struggle. She said she is
13 glad to see everyone working together.

14 Chair Price asked for a motion to recess for the purposes of a break.

15
16 **Recess**

17
18 A motion was made by Commissioner Fowler, seconded by Commissioner McKee, to
19 recess the meeting for 2 minutes.

20
21 **Roll call ensued**

22
23 **VOTE: UNANIMOUS**

24
25 **Reconvene the Meeting**

26
27 Chair Price asked for a motion to reconvene the meeting.

28
29 A motion was made by Commissioner McKee, seconded by Commissioner Hamilton, to
30 reconvene at 9:12 p.m.

31
32 **Roll call ensued.**

33
34 **VOTE: UNANIMOUS**

35
36
37 **2. Chapel Hill Library Advisory Board – Appointment Discussion**

38 The board discussed an appointment to the Chapel Hill Library Advisory Board.

39
40 **BACKGROUND:**

41 The Chapel Hill Public Library Advisory Board is responsible for recommending long-term plans,
42 policies, and programs of library service throughout the community. It advises the Chapel Hill
43 Mayor and Council on library matters, develops plans for library facilities, and recommends
44 operating policies of the library.

45
46 The Board of County Commissioners appoints one member to this board.

47
48 The following applicant is recommended by the Chapel Hill Town Council for Board
49 consideration:

50

| NAME | POSITION | TYPE OF | EXPIRATION |
|------|----------|---------|------------|
|------|----------|---------|------------|

| | DESCRIPTION | APPOINTMENT TERM | DATE |
|--------------|----------------|------------------|------------|
| Alison Smith | BOCC Appointee | First Full Term | 06/30/2024 |

1
2 If the individual listed above is appointed, no vacancies remain.
3

4 Tara May highlighted changes made to the appointment materials in the agenda packet.
5 She said there is additional information on the advisory boards. She said the board does not
6 have to appoint those who have been recommended. She said representation and diversity that
7 each applicant can bring to the board has been highlighted in the packet. She said she also
8 included the traditional board roster, but no attendance records. She said she would like to get
9 feedback on the additional process.

10 Commissioner Bedford said she liked the new excel file.

11 The board expressed appreciation to Tara May for her work.

12 Tara May introduced item 2.

13 Commissioner Bedford said she asked Tara May for information about the resolution to
14 accept recommendations from the Chapel Hill Town Council. She asked the Chapel Hill Mayor
15 who is doing the vetting, but she did not know.

16 Commissioner Greene said the Town Council does vote on the recommended person,
17 but the county does not have to take the recommendation.

18 Commissioner Bedford asked if the Town Council does interviews or reviews the
19 applications.

20 Commissioner Greene said they reviewed applicants just as the county does.

21 Chair Price said there are a few other boards that do the same thing.

22 Commissioner Bedford said she thought it was odd to have Chapel Hill to vote on the
23 recommended appointee by Orange County. She said it is the Orange County representative to
24 the Chapel Hill library board. She said she would have made a different choice than the Town
25 Council, and she has no basis for why the town recommended Alison Smith. She said there
26 were other seemingly more qualified applicants.

27 Commissioner Hamilton said Alison Smith is listed as living in the Hillsborough
28 Township, but has a Chapel Hill address. She said this is puzzling.

29 Tara May said she would have to research that.

30 Commissioner Hamilton said the county's representative should perhaps live in the
31 county to represent voices outside of the Town limits.

32 Chair Price said since this is the Chapel Hill library, she would expect the appointee to
33 live in Chapel Hill, but the board can appoint someone else.

34 Tara May said it was an error on the application, and the applicant lives in Chapel Hill.

35 Commissioner Greene said she was not sure what she wanted to do.

36 Commissioner Hamilton asked if the board needed more information.

37 Commissioner Bedford said the board is free to nominate whomever it wished, and the
38 applicant only has to live in Orange County.

39 Chair Price said she would like to get more information on who is supposed to be on the
40 advisory board.

41 Commissioner Greene said she thought the process is not clear about why the Town of
42 Chapel Hill makes a recommendation.

43 Chair Price said the process does not make sense to her.

44 The board agreed by consensus to delay the discussion until it received further
45 information.

46
47 **3. Chapel Hill Orange County Visitors Bureau – Appointments Discussion**

48 The board discussed appointments to the Chapel Hill Orange County Visitors Bureau.

BACKGROUND:

The Chapel Hill Orange County Visitors Bureau is charged with developing and coordinating visitor services in Orange County. It also implements marketing programs that will enhance the economic activity and quality of life in the community.

The Board of County Commissioners appoints all 17 members, with representation from specific entities and fields.

The following applicants are recommended for board consideration:

| NAME | POSITION DESCRIPTION | TYPE OF APPOINTMENT TERM | EXPIRATION DATE |
|---------------------|---|--------------------------|-----------------|
| Pam Hemminger | Chapel Hill Town Council Representative | Second Full Term | 12/31/2024 |
| Tanya Moore | UNC Chapel Hill Representative | Second Full Term | 12/31/2024 |
| Lili Engelhardt | At-Large | First Full Term | 12/31/2024 |
| Heidi Werner Dawson | OC Lodging Association Representative | First Full Term | 12/31/2024 |

If the individuals listed above are appointed, no vacancies remain.

Tara May introduced the item. She said Ms. Dawson does not reside in Orange County, but the board has appointed people in the past who do not reside in Orange County. She said the board will also consider an amendment to the Visitor’s Bureau Advisory Board policy to allow people to be appointed who do not live in Orange County at a future business meeting.

Commissioner Bedford recommended that the board appoint the four listed recommended applicants.

Commissioner McKee seconded.

The board agreed by consensus on the recommended applicants.

4. Commission for the Environment – Appointments Discussion

The board discussed appointments to the Commission for the Environment.

BACKGROUND:

The Commission for the Environment advises the Board of Commissioners on matters affecting the environment with particular emphasis on protection. It educates public and local officials on environmental issues and performs special studies and projects. It also recommends environmental initiatives and study changes in environmental science and local and federal regulations.

The Board of County Commissioners appoints all 15 members, including 10 At-Large members and 5 members with expertise in specific fields.

The following members and applicants are recommended for board consideration:

| NAME | POSITION DESCRIPTION | TYPE OF APPOINTMENT TERM | EXPIRATION DATE |
|---------------------|----------------------|--------------------------|-----------------|
| Elizabeth McWhorter | At-Large | First Full Term | 12/31/2024 |
| Eric Scheier | At-Large | First Full Term | 12/31/2024 |
| James Eichel | At-Large | Second Full Term | 12/31/2024 |
| Jessie L. Birckhead | At-Large | First Full Term | 12/31/2024 |
| Jane Harris | At-Large | First Full Term | 12/31/2024 |

If the individuals listed above are appointed, no vacancies remain.

Tara May introduced the item.

Commissioner Greene said there may be an error on the grid, as two appointees should be for a second full term.

Tara May clarified these two appointees are currently serving partial terms, and reappointment would be for a first full term.

Commissioner Bedford said she supported all of the recommendations.

Commissioner Greene also agreed.

The board agreed by consensus on the recommended applicants.

5. Orange County Housing Authority – Appointments Discussion

The board discussed appointments to the Orange County Housing Authority.

BACKGROUND:

The goal of the Orange County Housing Authority board is to provide decent, safe, and sanitary housing for the low and moderate-income families in the County.

All seven At-Large members are appointed by the Board of County Commissioners.

The following applicants are recommended for board consideration:

| NAME | POSITION DESCRIPTION | TYPE OF APPOINTMENT TERM | EXPIRATION DATE |
|----------------|----------------------|--------------------------|-----------------|
| Dennis Carmody | At-Large | First Full Term | 06/30/2024 |
| Valerie Sauer | At-Large | First Full Term | 06/30/2024 |

If the individuals listed above are appointed, the following vacancy remains:

| POSITION DESIGNATION | EXPIRATION DATE | VACANCY INFORMATION |
|----------------------|-----------------|--------------------------------|
| At-Large | 06/30/2022 | Vacant since 05/25/2021 |

Tara May introduced the item.

Commissioner Bedford said Mr. Carmody will bring an important lens to the board. She said Ms. Sauer’s work also brings relevant experience from her work at the Compass Center.

Commissioner Greene said she thought Alice Mahood would do well on the vacancy.

Commissioner Bedford said she also serves on the ABC Board.

1 Chair Price said she thought Saru Salvi would be a good nominee.
 2 Commissioner Hamilton said Saru Salvi is also on the Affordable Housing Advisory
 3 Board and asked if that is a conflict.
 4 Chair Price said it would likely be complimentary, and not a conflict.
 5 The board agreed by consensus on the recommended applicants.
 6 Commissioner Greene recommended Alice Mahood for the vacant position, and
 7 Commissioner Bedford agreed.
 8 Chair Price said she wanted to recommend Saru Salvi.
 9 The board agreed to nominate Alice Mahood to the vacant position.

10
 11 **6. Orange County Parks and Recreation Council – Appointment Discussion**

12 The board discussed an appointment to the Orange County Parks and Recreation
 13 Council.

14
 15 **BACKGROUND:**

16 The Orange County Parks and Recreation Council consults with and advises the Department of
 17 Environment, Agriculture, Parks and Recreation, and the Board of County Commissioners on
 18 matters affecting parks planning, development and operation; recreation facilities, policies and
 19 programs; and public trails and open space.

20
 21 The Board of County Commissioners appoints all 12 members with representatives from each
 22 of the county’s townships plus its municipalities.

23
 24 The following member is recommended for re-appointment for board consideration:
 25

| NAME | POSITION DESCRIPTION | TYPE OF APPOINTMENT TERM | EXPIRATION DATE |
|-------------|----------------------|--------------------------|-----------------|
| Gina Reyman | Eno Township | Second Full Term | 12/31/2024 |

26
 27 If the individual listed above is appointed, no vacancies remain.

28
 29 Tara May introduced the item.
 30 The board agreed by consensus to appoint the recommended applicant.

31
 32 A motion was made by Commissioner Fowler, seconded by Commissioner McKee, to go
 33 into closed session at 9:31 p.m. for the purposes listed below:

34
 35 "To consult with an attorney retained by the board in order to preserve the attorney-client
 36 privilege between the attorney and the board" NCGS § 143-318.11(a)(3), and to approve closed
 37 session minutes.

38 **Roll call ensued.**

39
 40 **VOTE: UNANIMOUS**

41
 42 **Reconvene the Meeting**

43
 44 A motion was made by Commissioner McKee, seconded by Commissioner Bedford, to
 45 reconvene into regular session at 10:04 p.m.
 46

1 **Roll call ensued**

2

3 **VOTE: UNANMIOUS**

4

5 **Adjournment**

6

7 A motion was made by Commissioner Fowler, seconded by Commissioner Bedford, to
8 adjourn the meeting at 10:04 p.m.

9

10 **Roll call ensued**

11

12 **VOTE: UNANMIOUS**

13

14

15

Renee Price, Chair

16

17

18 Laura Jensen

19 Clerk to the Board

20

21 Submitted for approval by Laura Jensen, Clerk to the Board.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT
Meeting Date: December 14, 2021**

**Action Agenda
Item No. 8-b**

SUBJECT: Second Reading of Amendments of Portions of the Code of Ordinances to Comply with North Carolina Session Law 2021-138

DEPARTMENT: County Attorney

ATTACHMENT(S):

Resolution of Amendment
Ordinance Amendments

INFORMATION CONTACT:

John Roberts, County Attorney, 245-
2318

PURPOSE: To consider the second reading of ordinances having misdemeanors as one of the available enforcement options and to repeal or re-adopt the misdemeanor provisions as may be required by law and adopt the proposed amendments and re-adopt existing language as described.

BACKGROUND: The Board of Commissioners considered the first reading of this item at the December 6, 2021 Business meeting. As previously reported to the Board of Commissioners, the North Carolina General Assembly recently passed and the Governor signed into law an act that prohibits certain local government ordinances from having criminal penalties and requires a new adoption process for other local government ordinances that have criminal (misdemeanor) penalties. Part XIII of North Carolina [Session Law 2021-138](#) reads in pertinent part:

§ 153A-123. Enforcement of ordinances.

(b) Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance may be a misdemeanor or infraction as provided by G.S. 14-4 only if the county specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 153A-45, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 18 of this Chapter, Planning and Regulation of Development or, its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.*
- (2) Any ordinance adopted pursuant to G.S. 153A-134, Regulating and licensing businesses, trades, etc.*
- (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile homes, house trailers, etc.*

- (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing programs.*
- (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.*
- (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.*
- (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating cisterns and rain barrels.*
- (8) Any ordinance regulating trees.*

In considering the recommended changes, the Board may wish to examine the full section of the ordinance in addition to the subsections shown on the attachment. Due to the number of sections in need of amendment or re-adoption, it is not practical to attach the entire 600 plus Code of Ordinances. The Board and the public may view the [Code of Ordinances](#) at this link. Each section may be accessed by clicking the Chapters linked on the left hand side of the page.

In order to comply with the provisions of subsection (b1) of the session law the following ordinances should have the misdemeanor penalties removed from the ordinance.

- Code of Ordinances --- Second Reading --- Text Amendments as reflected in Attachment 1
 - Chapter 1; Section 1-7 – General Penalties --- Language amended
 - Chapter 4; Section 4-51 – Animal Control Generally --- Clarifies that not all violations of the Animal Control Ordinance are intended to automatically be misdemeanors
 - Chapter 8; Section 8-42 – Regulation of Massage Businesses --- Misdemeanor language replaced by civil penalty
 - Chapter 8; Section 8-81 – Tax on Gross Receipts for the lease or rental of motor vehicles --- Misdemeanor language removed
 - Chapter 8; Section 8-100 – Regulation of Sexually Oriented Businesses --- Misdemeanor language replaced by civil penalty
 - Chapter 8; Section 8-122 – Regulation of Mobile Food Vending Businesses --- Misdemeanor language replaced by civil penalty

There is consensus among local government attorneys that the substantial change in the manner in which ordinances that have a misdemeanor penalty are adopted into law should be addressed by the governing board, out of an abundance of caution, by re-adopting those provisions under the new method. The ordinances in the Code that provide for a misdemeanor penalty include the following sections.

- Code of Ordinances --- Second Reading --- No Changes to Language
 - Chapter 4; Section 4-42 --- Control of Dangerous Animals
 - Chapter 4; Section 4-133 --- Display of Wild Animals
 - Chapter 4; Section 4-184 --- Keeping Wild Animals
 - Chapter 14; Section 14-42 --- State of Emergency
 - Chapter 14; Section 14-83 --- Emergency Management
 - Chapter 14; Section 14-129 --- Rescue Franchise Agreements
 - Chapter 14; Section 14-261 --- Oil Pollution and Hazardous Substances

- Chapter 16; Section 16-37 --- Smoking
- Chapter 16; Section 16-57 --- Noise
- Chapter 18; Section 18-119 --- Parking (infraction not a misdemeanor)
- Chapter 24; Section 24-1 --- Hunting and Fishing
- Chapter 24; Section 24-3 --- Firearms Discharge
- Chapter 24; Section 24-4 --- Fireworks Display
- Chapter 34; Section 34-1 --- Disposal of Solid Waste
- Chapter 34; Section 34-47 --- Solid Waste Collection and Disposal
- Chapter 34; Section 34-77 --- Recyclable Materials
- Chapter 36; Section 36-34 --- General Water Conservation
- Chapter 36; Section 36-67 --- Emergency Water Conservation
- Unified Development Ordinance – The UDO has provisions that must be amended and that amendment is addressed through a separate item on this meeting’s agenda.

There has been discussion previously by Board members about the necessity for the misdemeanor penalty provisions of some ordinances. Contrary to what may be generally believed, the goal of the penalty sections of the ordinances is compliance rather than punishment. Generally, a civil citation for a violation would issue prior to any misdemeanor citation. And for the most part, once the offender is in compliance the civil penalty, if any was assessed, may be waived in whole or in part depending on the circumstances. Having a misdemeanor option is another avenue to encourage compliance either through the threat of enforcement or when a civil penalty fails. The only ordinance violations that regularly involve misdemeanor penalties are violations of the Animal Control Ordinance. When misdemeanor violations are charged the outcome is out of the hands of county staff and is decided by the District Attorney. For these reasons misdemeanor penalties are rarely pursued for violations of ordinances other than for violations of the Animal Control Ordinance.

FINANCIAL IMPACT: There is no financial impact associated with this item.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve and authorize the Chair to sign the attached resolution adopting amendments to certain sections of the Code of Ordinances repealing some misdemeanor penalties and re-adopting other sections of the Code of Ordinances to comply with newly established standards for adoption of ordinances.

RESOLUTION OF AMENDMENT

A RESOLUTION AMENDING THE ORANGE COUNTY CODE OF ORDINANCES

Be it Resolved and Ordained by the Board of Commissioners of Orange County, North Carolina:

WHEREAS, in 2021 the North Carolina Legislature passed and Governor Cooper signed into law Session Law 2021-138; and

WHEREAS, Part XIII of Session Law 2021-138 prohibits certain local government ordinances from containing criminal penalties and requires a new adoption process for other local government ordinances that have criminal (misdemeanor) penalties; and

WHEREAS, a number of Orange County ordinances contain misdemeanor penalties that must be amended or repealed; and

WHEREAS, it is best practice to re-adopt under the new adoption process those ordinances that may lawfully contain misdemeanor penalties; and

WHEREAS, the Board of Commissioners conducted a first reading of the proposed amendments on December 6, 2021 and a second reading on December 14, 2021.

NOW THEREFORE BE IT RESOLVED AND ORDAINED, that the Code of Ordinances, Orange County, North Carolina, Section 1-7(a), Section 1-7(e), Section 4-51(a), Section 8-42(a), Section 8-81, Section 8-100(a), and Section 8-122(a) are hereby amended, which amendments read as shown in Attachment 1.

AND BE IT FURTHER RESOLVED AND ORDAINED, that Section 4-42(h)(4), Section 4-133(b)(1), Section 4-184(b)(1), Section 14-42, Section 14-83, Section 14-129(a)(5), Section 14-261, Section 16-37(b), Section 16-57(c), Section 18-119, Section 24-1(j), Section 24-3(h), Section 24-4(e), Section 34-1(c)(1), Section 34-47(a), Section 34-77(3), Section 36-34, and Section 36-67(a) of the Code of Ordinances are re-adopted as currently adopted and as shown on Attachment 1.

This Amendment is effective upon adoption.

Adopted by the Orange County Board of Commissioners this 14th day of December, 2021.

By:

Attest:

Renee Price, Chair
Orange County Board of Commissioners

Laura Jensen, Clerk to the Board

[SEAL]

Attachment 1

Ordinance Text Amendments and Re-Adoption

Sections for first reading involving a repeal or substantive change in language.**Sec. 1-7. - General penalty.**

(a) ~~Should an ordinance in this Code of Ordinances provide that the violation thereof is a misdemeanor then a~~Any person violating or failing, refusing or neglecting to comply with any provision or requirement of ~~any section or subsection of this Code, that ordinance or section of this Code of Ordinances or any ordinance of this county now in force or hereafter enacted, to which no specific penalty is affixed,~~ shall be ~~guilty of a misdemeanor as provided by NCGS 14-4 and~~ punished by a fine not to exceed \$500.00, or shall be imprisoned for not more than 30 days, for each offense.

...

(e) ~~Except as otherwise specified herein or prohibited by law, if~~ any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance ~~is a misdemeanor and may be summarily abated by the county~~ in addition to the imposition of a fine or imprisonment ~~as authorized by Sec. 1-7., as further authorized by NCGS 14-4, may be abated by the County pursuant to the procedures set out in NCGS 153A-123(e).~~

Sec. 4-51. - Penalties.

(a) The violation of any provision of this Ordinance ~~shall~~ may be a misdemeanor and any person convicted of such violation shall be punishable as provided in North Carolina General Statutes section 14-4, or other applicable law. Each day's violation of this Ordinance is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his or her liability for taxes, fees or civil penalties imposed under this Ordinance.

Sec. 8-42. - Remedies.

(a) Any person violating any of the provisions of this Article shall be subject to a civil penalty of \$100.00. Each day of a continuing violation shall constitute a separate violation under this subsection. The county manager, or his or her designee, shall be authorized to assess civil penalties under this Article and shall make written demand for payment upon the person responsible for the violation and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter shall be referred to the county attorney for institution of a civil action in the name of the county in the appropriate division of the General Court of Justice of Orange County for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Article. Any such civil penalties may be

recovered in the nature of debt. Violation of this Ordinance is a misdemeanor punishable as prescribed in G.S. § 14-4.

Sec. 8-81. -- Repealed. Misdemeanor for willful violation.

Any person, firm, corporation or association who willfully attempts in any manner to evade a tax imposed herein or who willfully refuses to pay the tax and file a return shall, in addition to the penalties provided by law herein, be guilty of a Class 3 Misdemeanor and shall pay a \$50.00 fine.

Sec. 8-100. - Remedies.

(a) Any person violating any of the provisions of this Article shall be subject to a civil penalty of \$100.00. Each day of a continuing violation shall constitute a separate violation under this subsection. The county manager, or his or her designee, shall be authorized to assess civil penalties under this Article and shall make written demand for payment upon the person responsible for the violation and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter shall be referred to the county attorney for institution of a civil action in the name of the county in the appropriate division of the General Court of Justice of Orange County for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Article. Any such civil penalties may be recovered in the nature of debt. Violation of this article is a misdemeanor punishable as prescribed in G.S. § 14-4.

Sec. 8-122. - Remedies.

(a) Any person violating any of the provisions of this Article shall be subject to a civil penalty of \$100.00. Each day of a continuing violation shall constitute a separate violation under this subsection. The county manager, or his or her designee, shall be authorized to assess civil penalties under this Article and shall make written demand for payment upon the person responsible for the violation and shall set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter shall be referred to the county attorney for institution of a civil action in the name of the county in the appropriate division of the General Court of Justice of Orange County for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Article. Any such civil penalties may be recovered in the nature of debt.

Sections for first reading involving no substantive change in language. Re-adoption of these Ordinance sections is recommended out of an abundance of caution due to the statutory change in the requirements for adoption of ordinances with misdemeanor penalties.

Sec. 4-42. - Control of dangerous animals; security dogs.

(h)(4) Any violation of this section may be a misdemeanor and subject to a fine of \$500.00 or imprisonment of not more than 30 days.

Sec. 4-133. - Enforcement.

(b)(1) Criminal Offenses—A violation of any provision of this Division constitutes a Class 3 Misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

Sec. 4-184. - Enforcement.

(b)(1) Criminal Offenses—A violation of any provision of this Division constitutes a misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

Sec. 14-42. - Penalty for violation of article.

Except as provided in section 14-36, any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a misdemeanor, punishable upon conviction in accordance with section 1-7, as provided by G.S. 14-4.

Sec. 14-83. - Violations.

It shall be a misdemeanor for any person to violate any of the provisions of this Ordinance or plans issued pursuant to the authority contained herein, or willfully obstruct, hinder or delay any member of the emergency management organization as herein defined in the enforcement of the provisions of this Ordinance or any plan issued thereunder.

Sec. 14-129. – Enforcement

(a)(5) Recommend to the Board of Commissioners the temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this Ordinance. Recommend the imposition of misdemeanor or civil penalties as provided therein.

Sec. 14-261. - Criminal penalties.

Any person who violates the provisions of this article or fails to comply with any of its requirements shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in G.S. 14-4.

Sec. 16-37. - Enforcement and penalties.

(b) The person in charge of a building or vehicle identified in Section 16-33 or his or her designee who sees an individual using a tobacco product (other than an employee) who is in violation of this Ordinance must ask the individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, he or she shall be in violation of this Ordinance. Violators of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500.00 in accordance with N.C. General Statute § 14-4(a).

Sec. 16-57. - Violations and penalties.

(c) Criminal penalties. Any person who violates any provision of this Article shall be deemed guilty of a class 3 misdemeanor punishable by imprisonment not to exceed 15 days or by fine not to exceed \$500.00, or both. Each day of a continuing violation shall constitute a separate violation under this subsection.

Sec. 18-119. – Infraction.

Any person who violates the provisions of this article shall be responsible for an infraction, as provided in G.S. 14-4, and shall be required to pay a penalty of \$50.00.

Sec. 24-1. - Regulating hunting and fishing in Orange County.

(j) Any person convicted of a violation of this Ordinance is guilty of a Class 3 Misdemeanor and upon conviction shall be fined not more than \$500.00.

Sec. 24-3. - Regulating the discharge of firearms.

(h) A violator of this Section shall be guilty of a Class III misdemeanor punishable by a fine of up to \$500.00. A violation of this Section may subject the violator to a civil penalty of up to \$500.00. All assessed penalties may be recovered in any manner authorized by law and, if not paid within 30 days, may be recovered in the nature of debt.

Sec. 24-4. - Regulating the display of pyrotechnics.

(e) Any person violating any provision of this Section shall be guilty of a misdemeanor and subject to a fine of not more than \$500.00 and/or imprisonment for not more than 30 days. Violators may be subject to a civil penalty of \$500.00 per violation to be recovered in the nature of debt if not paid within 30 days.

Sec. 34-1. - Restricting the disposal of solid waste at the county landfill.

(c)(1) Criminal penalty. Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine of not to exceed \$500.00 or imprisonment for not more than 30days, or both. Each violation and each day's violation shall be treated as a separate offense.

Sec. 34-47. Enforcement

(a) Criminal penalty. Any person violating this article shall be guilty of a misdemeanor punishable in accordance with section 1-7. Each day's continuing violation shall be a separate and distinct offense.

Sec. 34-77. - Enforcement.

(3) Criminal penalty. Any person violating this article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00 or imprisonment for not more than 30 days, or both. Each day's continuing violation is a separate and distinct offense. Each violation is a separate and distinct offense.

Sec. 36-34. – Penalties.

Any violation of the provisions of this Article shall constitute a misdemeanor, punishable upon conviction in accordance with section 1-7, as provided by G.S. § 14-4. Any such violation may be enjoined, restrained or abated as provided by G.S. §§ 153A-123(d) and 153A-123(e).

Sec. 36-67. - Penalties and remedies.

(a) Any violation of any of the provisions of this Division shall constitute a misdemeanor, punishable as provided in G.S. § 14-4.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: December 14, 2021

**Action Agenda
Item No.** 8-c

SUBJECT: Schools Adequate Public Facilities Ordinance (SAPFO) – Approval of Membership and Capacity Numbers

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

1. Orange County Schools and Chapel Hill-Carrboro City Schools: SAPFO Capacity Calculation and Change Request Form (Includes Student Membership) for Elementary, Middle, and High School Levels
2. Chart Depicting LOS, Capacity, Membership, and Membership Increases

INFORMATION CONTACT:

Craig Benedict, Director, 919-245-2575
Ashley Moncado, Planner II, 919-245-2589

PURPOSE: To consider approval of November 15, 2021 membership and capacity numbers for both school districts (Orange County and Chapel Hill-Carrboro City Schools) which will be used in developing 10-year student membership projections and the 2022 SAPFO Technical Advisory Committee (SAPFOTAC) Report.

BACKGROUND: In accordance with the SAPFO MOUs (Memorandum of Understanding), the Board of County Commissioners shall approve the school districts' November 15th membership and capacity numbers within 15 school days after receiving the numbers from the school districts. Both Orange County Schools and Chapel Hill-Carrboro City Schools submitted their membership and capacity numbers in accordance with the MOUs. As per the MOUs, this step of the SAPFO process entails only the approval of the student membership and capacity numbers.

The SAPFOTAC, comprised of representatives of both school systems and the Planning Directors of the County and Towns, is tasked to produce an annual report for the governing boards of each SAPFO partner. The full annual SAPFOTAC report, which will include 10-Year student membership projections, will be completed in early 2022. The CAPS (Certificate of Adequate Public Schools) system is updated with actual membership and capacity figures after the BOCC approves the information submitted by the school districts.

The chart in [Attachment 2](#) shows the Capacity and Membership for each school level in both school districts and the increase (or decrease) over the November 15, 2020 membership. It also shows the Allowable Maximum Level of Service (LOS) as was agreed upon as part of the SAPFO MOU process and the Actual LOS based on November 15, 2021 membership numbers.

Pre-K Enrollment

In recent years, Pre-K enrollment has been a topic of discussion with both school districts. However, SAPFO has not been amended to include Pre-K in the membership and capacity numbers. Therefore, Pre-K children are not included in the membership numbers reported. Discussions regarding Pre-K students and impacts have been ongoing; however, COVID priorities have been the focus over the last two school years. Pre-K membership numbers will be provided in the 2022 SAPFOTAC Report.

COVID Impacts

Last school year, both school districts experienced significant decreases in membership due to children being withdrawn from CHCCS or OCS and enrolled in private schools with in-person learning or homeschooled. The loss of students impacted the SAPFO 10-year projections by decreasing the future growth rates and service levels and pushing building capacity needs far beyond the 10-year projection period. Recognizing concerns with these projections not being constructive in planning for the future or when students return to the classroom, Orange County Planning staff drafted hypothetical student membership and grade level numbers in order to generate alternative 10-year student projections. Since it appears that impacts remain at the elementary and middle school levels, Planning staff will again be drafting hypothetical student membership numbers and alternative 10-year student projections to share with the SAPFOTAC and include in the annual report presented to the Board in March.

FINANCIAL IMPACT: There is no financial impact in approving the membership and capacity forms. Precise financial impacts in membership and capacity changes cannot be determined at this time, but changes in projected growth in student membership for the next ten years is expected to result in changes in future operating and capital budget requests.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact applicable to this item:

RECOMMENDATION(S): The Manager recommends the Board approve the November 15, 2021 Membership and Capacity numbers as submitted by each school district.

Attachment 1

Schools Adequate Public Facilities Ordinance (SAPFO) Capacity, Membership and Change Request Form

School District: Orange County Schools
 SAPFO CAPS Year: November 15, 2021 - November 14, 2022
 Capacity and Membership Submittal Date: November 15, 2021

| Elementary School | Square Feet | 2017-2018 Requested Capacity | 2018-2019 Requested Capacity | 2019-2020 Requested Capacity | 2020-2021 Requested Capacity | 2021-2022 Requested Capacity | Justification Footnote # | Membership (referenced school year) | Percentage of Capacity/Level of Service |
|-------------------|----------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|--------------------------|-------------------------------------|---|
| River Park | 70,812 | 565 | 565 | 502 | 502 | 502 | | 557 | 111.0% |
| Central | 52,492 | 455 | 455 | 428 | 428 | 428 | | 299 | 69.9% |
| Efland | 64,316 | 497 | 497 | 455 | 455 | 455 | | 482 | 105.9% |
| Grady Brown | 74,016 | 544 | 544 | 490 | 490 | 490 | | 411 | 83.9% |
| Hillsborough | 51,106 | 471 | 471 | 420 | 420 | 420 | | 422 | 100.5% |
| New Hope | 100,164 | 586 | 586 | 526 | 526 | 526 | | 533 | 101.3% |
| Pathways | 85,282 | 576 | 576 | 540 | 540 | 540 | | 319 | 59.1% |
| Total | 498,188 | 3,694 | 3,694 | 3,361 | 3,361 | 3,361 | | 3,023 | 89.9% |

Special Note(s): 1. For the November 15, 2002 base year the board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC. 2. During the 2021-2022 school year, the Orange County Schools opened the OCS Online Academy as alternative learning option for students in grades K-12 as a result of the COVID-19 global pandemic. The membership counts for November 15, 2021 include the online students who are still assigned a base physical school within the district as these students have the opportunity to return to their assigned school during the school year. Physical classroom capacities must be reserved in order to ensure these students are able to return to their assigned school without space limitations. The membership counts for these online students as of November 15, 2021 are: Total 173 students in Elementary (68), Middle (48), and High (57).

Justification:

Capacity and Membership Certification:

Margaret Felder
 Superintendent Date

BOCC Chair Date

Schools Adequate Public Facilities Ordinance (SAPFO) Capacity, Membership and Change Request Form

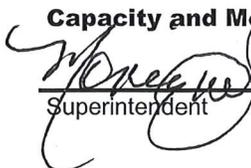
| |
|--|
| School District: Orange County Schools |
| SAPFO CAPS Year: November 15, 2021 - November 14, 2022 |
| Capacity and Membership Submittal Date: November 15, 2021 |

| High School | Square Feet | 2017-2018 Requested Capacity | 2018-2019 Requested Capacity | 2019-2020 Requested Capacity | 2020-2021 Requested Capacity | 2021-2022 Requested Capacity | Justification Footnote # | Membership (referenced school year) | Percentage of Capacity/Level of Service |
|--------------|----------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|--------------------------|-------------------------------------|---|
| Cedar Ridge | 256,900 | 1,000 | 1,000 | 1,000 | 1,000 | 1,500 | 3 | 1,065 | 71.0% |
| Orange | 213,509 | 1,399 | 1,399 | 1,399 | 1,399 | 1,399 | | 1,373 | 98.1% |
| Partnership | 6,600 | 40 | 40 | 40 | 40 | 40 | | 34 | 85.0% |
| Total | 477,009 | 2,439 | 2,439 | 2,439 | 2,439 | 2,939 | | 2,472 | 84.1% |

Special Note(s): 1. For the November 15, 2002 base year the board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC. 2. During the 2021-2022 school year, the Orange County Schools opened the OCS Online Academy as alternative learning option for students in grades K-12 as a result of the COVID-19 global pandemic. The membership counts for November 15, 2021 include the online students who are still assigned a base physical school within the district as these students have the opportunity to return to their assigned school during the school year. Physical classroom capacities must be reserved in order to ensure these students are able to return to their assigned school without space limitations. The membership counts for these online students as of November 15, 2021 are: Total 173 students in Elementary (68), Middle (48), and High (57).

Justification: 3. The capacity at Cedar Ridge High School has increased from 1,000 students to 1,500 students due to the opening of a new 50,000 square foot classroom addition. This increases the total square footage from 206,900 to 256,900 square feet.

Capacity and Membership Certification:


11/18/21
 Superintendent Date

 BOCC Chair Date

Schools Adequate Public Facilities Ordinance (SAPFO) Capacity, Membership and Change Request Form

School District: Chapel Hill-Carrboro City Schools

SAPFO CAPS Year: November 15, 2021 - November 14, 2022

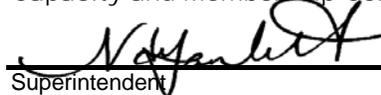
Capacity and Membership Submittal Date: November 15, 2021

| Elementary School | Square Feet | 2017-2018 Requested Capacity | 2018-2019 Requested Capacity | 2019-2020 Requested Capacity | 2020-2021 Requested Capacity | 2021-2022 Requested Capacity | Justification Footnote # | Membership (referenced school year) | Percentage of Capacity/Level of Service |
|-------------------|----------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|--------------------------|-------------------------------------|---|
| Carrboro | 60,832 | 533 | 518 | 518 | 518 | 518 | | 494 | 95.4% |
| Ephesus | 66,952 | 448 | 436 | 436 | 436 | 436 | | 341 | 78.2% |
| Estes Hills | 56,299 | 527 | 516 | 516 | 516 | 516 | | 353 | 68.4% |
| FP Graham | 66,689 | 538 | 522 | 522 | 522 | 522 | | 507 | 97.1% |
| Glenwood | 50,764 | 423 | 412 | 412 | 412 | 412 | | 422 | 102.4% |
| McDougle | 98,000 | 564 | 548 | 548 | 548 | 548 | | 462 | 84.3% |
| Morris Grove | 90,221 | 585 | 568 | 568 | 568 | 568 | | 461 | 81.2% |
| Northside | 99,500 | 585 | 568 | 568 | 568 | 568 | | 380 | 66.9% |
| Rashkis | 95,729 | 585 | 568 | 568 | 568 | 568 | | 419 | 73.8% |
| Scroggs | 90,980 | 575 | 558 | 558 | 558 | 558 | | 395 | 70.8% |
| Seawell | 52,896 | 466 | 450 | 450 | 450 | 450 | | 504 | 112.0% |
| Total | 828,862 | 5,829 | 5,664 | 5,664 | 5,664 | 5,664 | | 4,738 | 83.7% |

Special Note(s): 1. For the November 15, 2002 base year the Board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification:

Capacity and Membership Certification:


 11/15/2021
 Superintendent Date

BOCC Chair

Date

Schools Adequate Public Facilities Ordinance (SAPFO) Capacity, Membership and Change Request Form

School District: Chapel Hill-Carrboro City Schools

SAPFO CAPS Year: November 15, 2021 - November 14, 2022

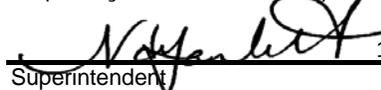
Capacity and Membership Submittal Date: November 15, 2021

| Middle School | Square Feet | 2017-2018 Requested Capacity | 2018-2019 Requested Capacity | 2019-2020 Requested Capacity | 2020-2021 Requested Capacity | 2021-2022 Requested Capacity | Justification Footnote # | Membership (referenced school year) | Percentage of Capacity/Level of Service |
|---------------|----------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|--------------------------|-------------------------------------|---|
| Culbreth | 122,467 | 774 | 774 | 774 | 774 | 774 | | 668 | 86% |
| McDougle | 136,221 | 732 | 732 | 732 | 732 | 732 | | 754 | 103% |
| Phillips | 109,498 | 706 | 706 | 706 | 706 | 706 | | 661 | 94% |
| Smith | 128,764 | 732 | 732 | 732 | 732 | 732 | | 719 | 98% |
| Total | 496,950 | 2,944 | 2,944 | 2,944 | 2,944 | 2,944 | | 2,802 | 95.2% |

Special Note(s): 1. For the November 15, 2002 base year the Board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification:

Capacity and Membership Certification:


 Superintendent _____ Date 11/15/2021

BOCC Chair _____ Date

Schools Adequate Public Facilities Ordinance (SAPFO) Capacity, Membership and Change Request Form

School District: Chapel Hill-Carrboro City Schools

SAPFO CAPS Year: November 15, 2021 - November 14, 2022

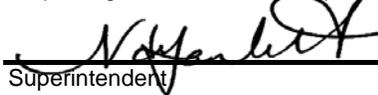
Capacity and Membership Submittal Date: November 15, 2021

| High School | Square Feet | 2017-2018 Requested Capacity | 2018-2019 Requested Capacity | 2019-2020 Requested Capacity | 2020-2021 Requested Capacity | 2021-2022 Requested Capacity | Justification Footnote # | Membership (referenced school year) | Percentage of Capacity/Level of Service |
|------------------|----------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|--------------------------|-------------------------------------|---|
| Carrboro | 148,023 | 800 | 800 | 800 | 800 | 800 | | 849 | 106% |
| Chapel Hill | 241,111 | 1,520 | 1,520 | 1,520 | 1,620 | 1,620 | | 1,515 | 94% |
| East Chapel Hill | 259,869 | 1,515 | 1,515 | 1,515 | 1,515 | 1,515 | | 1,484 | 98% |
| Phoenix Acad. | 5,207 | 40 | 40 | 40 | 40 | 40 | | 92 | 230% |
| Total | 654,210 | 3,875 | 3,875 | 3,875 | 3,975 | 3,975 | | 3,940 | 99.1% |

Special Note(s): 1. For the November 15, 2002 base year the Board accepted the superintendent-certified capacities as part of the School Facilities Task Force review and 2003 Planners and School Representative Technical Advisory Committee Report. These capacities will remain effective until changed by (1) the School CIP or (2) an amended version of this form that is certified by the BOCC.

Justification: At Phoenix Academy, 57 of the 90 students are in our Virtual Learning Academy; only 33 students attend in person; 33/40 is 82.5%.

Capacity and Membership Certification:


 _____ 11/15/2021
 Superintendent Date

 BOCC Chair Date

Attachment 2

School LOS, Capacity, Membership, and Membership Increases

| | <i>Chapel Hill/Carrboro School District</i> | | <i>Orange County School District</i> | |
|--------------------------|---|--------------------|--------------------------------------|--------------------|
| | Allowable Maximum LOS (per MOU) | Actual 2021-22 LOS | Allowable Maximum LOS (per MOU) | Actual 2021-22 LOS |
| <i>Elementary</i> | 105% | 83.7% | 105% | 89.9% |
| <i>Middle</i> | 107% | 95.2% | 107% | 76.5% |
| <i>High</i> | 110% | 99.1% | 110% | 84.1% |

| | <i>Chapel Hill/Carrboro School District</i> | | | | | <i>Orange County School District</i> | | | | |
|--------------------------|---|------------------------------|-------------------------|-----------------------|------------------------|--------------------------------------|------------------------------|-------------------------|-----------------------|------------------------|
| | Capacity At 100% LOS* | Capacity At MOU LOS Maximum* | Nov. 15 2021 Membership | Prior Year Membership | Change from Prior Year | Capacity At 100% LOS* | Capacity At MOU LOS Maximum* | Nov. 15 2021 Membership | Prior Year Membership | Change from Prior Year |
| <i>Elementary</i> | 5,664 | 5,947 | 4,738 | 4,893 | - 155 | 3,361 | 3,529 | 3,023 | 3,047 | - 24 |
| <i>Middle</i> | 2,944 | 3,150 | 2,802 | 2,917 | - 115 | 2,166 | 2,318 | 1,656 | 1,654 | - 2 |
| <i>High</i> | 3,975 | 4,373 | 3,940 | 3,932 | + 8 | 2,939 | 3,233 | 2,472 | 2,381 | + 91 |

* Class size ratio is 1:19 in grades K-3.

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: December 14, 2021

**Action Agenda
Item No.** 8-d

SUBJECT: Lake Orange Erosion Control Barrier Replacement Project - Construction
Contract Award

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

1. DRAFT Construction Agreement (Construction Contract) between Owner and Contractor (over \$250,000)
2. FY2021-26 CIP Summary for Lake Orange Dam Rehabilitation
3. Project Scope – *Lake Orange Erosion Control Barrier Replacement Project*
4. Bid Tabulation

INFORMATION CONTACT(S):

Christopher Sandt, Staff Engineer,
(919) 245-2583
Craig Benedict, Planning & Inspections
Director, (919) 245-2585
Jovana Amaro, Purchasing Agent,
(919) 245-2651

PURPOSE: To award a contract for the construction of the Lake Orange Erosion Control Barrier Replacement Project.

BACKGROUND: In July 2020, the County Manager approved a consulting services contract with the qualified engineering consulting firm, Alpha and Omega Group, PC, for the development of construction drawings and bid documents for use in competitive bid solicitation and a construction agreement award for the *Lake Orange Erosion Control Barrier Replacement Project* (hereafter “the Project”). In May 2021, the County Manager approved an amendment to the original consulting services contract with Alpha and Omega Group, PC for additional consulting services related to Bidding and Award Assistance, Construction Engineering and Inspections, Construction Materials Testing, and Post Construction Phase services for the Project.

The Project is part of Orange County’s current (FY2021-26) Capital Investment Plan (CIP) (see [Attachment 2](#) for FY2021-26 CIP Summary). The Project scope involves the repair/rehabilitation of the existing erosion control barrier and emergency spillway approach on the Lake Orange dam (see [Attachment 3](#) for a display of basic Project scope). In order to commence construction and help ensure worker safety, the water surface of Lake Orange will be temporarily lowered (i.e. drawn down) by a maximum of seven (7) feet below normal pool for approximately four (4) months.

On October 29, 2021, Orange County published an informal Advertisement for Bids (Orange County Bid No. 367-OC 5339) for the Project. On December 3, 2021, Orange County received two (2) electronic bids from qualified General Contractors (see [Attachment 4](#) for a copy of the Bid Tabulation for the Project).

The lowest responsible and responsive bidder for the Project as determined by staff is FSC II, LLC dba Fred Smith Company (hereafter “the Fred Smith Company”) of Raleigh, NC. On

December 3, 2021, the Fred Smith Company submitted a complete construction bid of \$446,579 for the Base Bid, \$306,180 for Alternate 1, and \$540,950 for Alternate 2. Staff subsequently requested a “best and final offer” from the Fred Smith Company (the lowest responsive and responsible bidder) and on December 8, 2021, Staff received from the Fred Smith Company a revised complete construction bid of \$438,000 for the Base Bid. Staff is currently negotiating costs and other technical details with the Fred Smith Company to develop a final construction contract that is specific to the Base Bid only. Neither Alternate 1 nor Alternate 2 are proposed for construction at this time and are not included as part of this item.

The anticipated Project schedule is as follows:

| Task | Duration/Date |
|---|---------------------------------|
| Construction Contract Execution | Late December 2021 |
| Lake Drawdown and Construction | Late December 2021 – April 2022 |
| Construction Completion and Lake Refill | April 2022 through Summer 2022 |

FINANCIAL IMPACT: Through prior years’ CIP budgeting and current year CIP budgeting, the Board has appropriated \$585,000 for design, construction, and management of the Project. The pending negotiated construction contract will not exceed the appropriated budget for the Project.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

ENVIRONMENTAL IMPACT: The following Orange County Environmental Responsibility Goal impact is applicable to this agenda item:

- **RESULTANT IMPACT ON NATURAL RESOURCES AND AIR QUALITY**
Assess and where possible mitigate adverse impacts created to the natural resources of the site and adjoining area. Minimize production of greenhouse gases.

RECOMMENDATION(S): The Manager recommends that the Board:

1. Authorize the County Manager and staff to negotiate a final construction contract with the Fred Smith Company of Raleigh, NC;
2. Authorize the Board Chair to execute the final construction contract for the Project on behalf of the Board, contingent upon evidence of responsibility in the contractually-required supplemental information to be provided by the Fred Smith Company, following the pending Notice of Award and subject to final review by the County Attorney; and
3. Authorize the County Manager to execute any subsequent construction contract amendments with the Fred Smith Company on behalf of the Board, up to the approved budget amount and subject to final review by the County Attorney.

[Departmental Use Only]
 TITLE LakeOrangeECBarrierRepl.
 FY 20-21

NORTH CAROLINA

CONSTRUCTION AGREEMENT OVER \$250,000.00

ORANGE COUNTY

THIS CONSTRUCTION AGREEMENT (hereinafter called "Agreement"), made as of the 15th day of December, 2021, by and between TBD, (hereinafter called the "Contractor"), and Orange County, a political subdivision of the State of North Carolina, (hereinafter called the "County," "Orange County," or "Owner").

WITNESSETH:

That the Contractor and the Owner, for the consideration herein named, agree as follows:

1. CONTRACT DOCUMENTS; PRIORITY

The Contract Documents consist of this Agreement, the General Conditions which are fully incorporated in this Agreement, the Request for Proposals, designer approved communications and field orders, the Proposal, Construction Documents and Drawings and Written Specifications. The Contract Documents form the Contract. In the event of any inconsistency between or among the Contract Documents the Contract Documents shall be interpreted in the following order of priority:

- a. This Agreement and incorporated General Conditions attached as Exhibit 1.
- b. Designer approved and stamped construction documents and drawings and written specifications.
- c. Designer approved communications and field orders.
- d. Request for Proposals and addenda thereto.
- e. Proposal.

2. SCOPE OF WORK

The Contractor shall furnish and deliver all of the materials, and perform, and be fully responsible for all of the Work required by this Agreement within the time period stipulated in a written Notice-to-Proceed to be executed by the Contractor and Owner and in accordance with the following enumerated documents, which are made a part hereof as if fully contained herein:

- a. Construction Drawings prepared by Alpha & Omega Group (Sheet CVR through C4.3 [12 plan sheets] dated 06/15/2021)
- b. Written specifications prepared by the Designer.
- c. TBD proposal dated December 3, 2021 which fully describes the work to be performed, such work (hereinafter called the "Work").

- d. Related documents listed under Section 1 above.

3. TERM AND SCHEDULING

- a. The Contractor agrees to commence work pursuant to the written Notice-to Proceed.
- b. The Contractor agrees to complete substantially all Work included by TBD, 2022.
- c. Time is of the essence with respect to all dates specified in the Contract Documents as Completion Dates.
- d. The Contractor shall perform the Work in the time, manner and form required by the Contract Documents and as stipulated in a written Notice-to-Proceed to be executed by the Contractor and Owner.

4. STANDARD OF CARE AND DUTIES OF CONTRACTOR

- a. The Contractor shall exercise reasonable care and diligence in performing the Work in accordance with the generally accepted standards of this type of Contractor practice throughout the United States and in accordance with applicable federal, state and local laws and regulations applicable to the performance of these services. Contractor is solely responsible for the professional quality, accuracy and timely completion and submission of all work.
- b. The Contractor shall not load or permit any part of the Work to be loaded with a weight that will endanger its safety, intended performance or configuration.
- c. Contractor shall be responsible for all Contractor, Subcontractor, and Sub-subcontractor errors or omissions, in the performance of the Agreement together with the errors and omissions of any agent or employee of the Contractor or any Subcontractor or Sub-subcontractor. Contractor shall correct any and all errors, omissions, discrepancies, ambiguities, mistakes or conflicts at no additional cost to the Owner.
- d. Contractor is an independent contractor of Owner. Any and all employees of the Contractor engaged by the Contractor in the performance of any work or services required of the Contractor under this Agreement, shall be considered employees or agents of the Contractor only and not of the Owner, and any and all claims that may or might arise under any workers compensation or other law or contract on behalf of said employees while so engaged shall be the sole obligation and responsibility of the Contractor.
- e. Contractor shall at all times remain in compliance with all applicable local, state, and federal laws, rules, and regulations including but not limited to all state and federal non-discrimination laws, policies, rules, and regulations and the Orange County Non-Discrimination Policy and Orange County Living Wage Policy (each policy is incorporated herein by reference and may be viewed at http://www.orangecountync.gov/departments/purchasing_division/contracts.php). Any violation of the Orange County Non-Discrimination Policy is a breach of this Agreement and County may immediately terminate this Agreement without further obligation on the part of the County. This paragraph is not intended to limit and does not limit the definition of breach to discrimination.
- f. If activities related to the performance of this Agreement require specific licenses, certifications,

or related credentials Contractor represents that it and its employees, agents and subcontractors engaged in such activities possess such licenses, certifications, or credentials and that such licenses certifications, or credentials are current, active, and not in a state of suspension or revocation.

- g. The Contractor shall supervise and direct the Work efficiently and with the Contractor's best skill and attention. Except as specifically set forth in the Contract Documents the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, and for safety precautions and programs in connection with the Work. The Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.
- h. The Contractor shall appoint a competent Project Manager with general authority to manage the Project for the Contractor. The Contractor shall also keep on the Project at all times during the Work of the Contractor a competent Resident Superintendent and necessary assistants who shall not be replaced without prior written approval by the Designer or by the Owner if a Designer is not retained for the Project.
- i. If, in the opinion of the Designer, any Subcontractor on the Project is incompetent or otherwise unsatisfactory, such Subcontractor shall be replaced by the Contractor with no increase in the Contract Price if and when directed by the Designer.
- j. The Contractor shall attend all progress conferences and all other meetings or conferences. The Contractor shall be represented at these progress conferences by a representative having the authority of the Project Manager and by such other representatives as the Designer may direct.
- k. Costs and expenses of providing samples for and assistance in any testing shall be borne by the Contractor. Any Work in which untested materials are used without written approval or written permission of the Owner or Designer shall be removed and replaced at Contractor's expense.
- l. The Contractor shall obtain all necessary permits including all permits required to complete the Work in compliance with local, state, and federal law.

5. PAYMENT & TAXES

- a. The Owner hereby agrees to pay to the Contractor for the faithful performance of this Agreement, and the Contractor hereby agrees to perform all of the Work for a sum not-to-exceed TBD Dollars (\$TBD). Not later than the fifth (5th) day of each calendar month the Contractor shall submit to the Owner's Representative, generally the Designer if a Designer is retained on the Work, a Request for Payment for work done during the previous calendar month.
 - (i) The Request for Payment shall be in form of a standardized invoice or AIA Document G702-703 appropriately addressed to Owner's Representative at 131 W. Margaret Lane, 2nd Floor, Hillsborough, NC 27278 and shall show substantially the value of work done during the previous calendar month.
 - (ii) The amount due for payment shall be ninety-five percent (95%) of the value of work completed since the last Request for Payment and this amount shall be paid by the Owner on or before the last business day of the month. Owner shall retain five percent (5%) (the "Retainage").

- (1) Upon Owner's Representative's certification that fifty percent (50%) of the Work has been satisfactorily completed Retainage shall be reduced to two and one half percent (2½%).
 - (2) Upon Owner's Representative's certification that ninety percent (90%) of the Work has been satisfactorily completed Retainage may be discontinued. Retainage may be discontinued, at Owner's Discretion, so long as work continues to be completed satisfactorily and on schedule.
 - (3) The Owner may discontinue withholding retainage in accordance with the provisions of NCGS-143-(b1)(2) when the project is 50% complete.
- (iii) Final payment shall not be due to the Contractor until thirty (30) days after Final Completion of the Work, including punch list work, has been satisfactorily (as determined by the County) completed and an appropriate Affidavit, Indemnification, and Release as required in Section 5.4(e) of Exhibit 1 has been received and approved by Owner.
- b. Should Owner reasonably determine that Contractor has failed to perform the Work related to a Request for Payment, Owner, at its discretion may provide the Contractor ten (10) days to cure the breach. Owner may withhold the accompanying payment without penalty until such time as Contractor cures the breach.
- (i) Should Contractor or its representatives fail to cure the breach within ten (10) days, or fail to reasonably agree to such modified schedule, Owner may immediately terminate this Agreement in writing, without penalty or incurring further obligation to Contractor.
 - (ii) This section shall not be interpreted to limit the definition of breach to the failure to perform the Work related to a Request for Payment.
- c. The Contractor has included in the Contract Price and shall pay all taxes assessed by any authority on the Work or the labor and materials used therein. It shall be the Contractor's responsibility to furnish the Owner documentary evidence showing the materials used and sales and use tax paid by the Contractor and each of its subcontractors.
- d. Should the Owner receive notice that the Contractor has failed to pay a Subcontractor for the Work performed related to a Request for Payment, Owner shall have the authority to withhold payment of the disputed amount until parties resolve their dispute. Failure to pay the Contractor pursuant to this section of the Agreement shall not be deemed to be a breach of the Agreement.

6. NON-APPROPRIATION

- a. Contractor acknowledges that Owner is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate.
- b. In the event that public funds are unavailable or not appropriated for the performance of Owner's obligations under this Agreement, then this Agreement shall automatically expire without penalty to Owner immediately upon written notice to Contractor of the unavailability or non-

appropriation of public funds. It is expressly agreed that Owner shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement.

- c. In the event of a change in the Owner's statutory authority, mandate or mandated functions, by state or federal legislative or regulatory action, which adversely affects Owner's authority to continue its obligations under this Agreement, then this Agreement shall automatically terminate without penalty to Owner upon written notice to Contractor of such limitation or change in Owner's legal authority.

7. NOTICES

Any notice required by this Agreement shall be in writing and delivered by certified or registered mail, return receipt requested to the following:

| | |
|----------------------------------|-------------|
| Owner: | Contractor: |
| Orange County | TBD |
| Attn: Christopher J. Sandt, P.E. | |
| P.O. Box 8181 | |
| Hillsborough, NC 27278 | |

8. MISCELLANEOUS

- a. Duties and Obligations imposed by the Contract Documents shall be in addition to any Duties and Obligations imposed by state, federal or local law, rules, regulations and ordinances.
- b. No act or failure to act by the Owner or Contractor shall constitute a waiver of any right or duty granted them under the Contract Documents, nor shall any act or failure to act constitute any approval except as specifically agreed in writing.
- c. The Work shall be tested and inspected as required by the Contract Documents and as required by law. Unless prohibited by law the costs of all such tests and inspections related to state and federal codes such as ADA, Administrative, Electrical, Plumbing, Mechanical and Building Codes shall be borne by the Contractor. The costs for material and structural testing shall be conducted by an independent third party at the expense of the Owner. Delays related to any of the aforementioned tests and inspections shall not be grounds for delaying the completion of the work. If any such tests and inspections reveal deficiencies in the Work such that the Work does not comply with terms or requirements of the Contract Documents and the requirements of any code or law the Contractor is solely responsible for the cost of bringing such deficiencies into compliance with the terms of the Contract Documents and any code or law.
- d. Should the Designer, if a Designer is retained for the project involving the Work, or Owner reject any portion of the Work for failing to comply with the Contract Documents Contractor shall immediately, at Contractor's expense, correct the Work. Any such rejection may be made before or after substantial completion. If applicable, any additional expense borne by the Designer under this section shall be paid at Contractor's expense.
- e. The County has designated (*Christopher J. Sandt, P.E.*) to act as the County's representative with respect to the Project and shall have the authority to render decisions within guidelines established by the County Manager or the County Board of Commissioners and shall be available during working hours as often as may be reasonably required to render decisions and to furnish

information.

- f. The Contractor shall not assign any portion of this Agreement nor subcontract the Work in its entirety without the prior written consent of the Owner.
- g. In the event of a breach by Contractor Owner has sole authority to determine the reasonableness of Contractor's actions to remedy such breach or complete the performance of its obligations.
- h. Upon request of the Owner, the Contractor shall submit to County all relevant documentation, including but not limited to, job cost records, to support its claims for final compensation and if such request is made final compensation shall not be due until all relevant documentation is received, reviewed, and approved by Owner.

9. CONSEQUENTIAL DAMAGES

- a. Owner and Contractor mutually waive any claim against each other for consequential damages. Consequential Damages include:
 - (i) Damages incurred by Owner for loss of use, income, financing, or business.
 - (ii) Damages incurred by Contractor for office expenses, including personnel, loss of financing, profit, income, business, damage to reputation, or any other non-direct damages.

10. ENTIRE AGREEMENT

All of the documents listed, referenced or described in this Agreement, the written Notice-to-Proceed, together with Modifications made or issued in accordance herewith are the Contract Documents, and the work, labor, materials, and completed construction required by the Contract Documents and all parts thereof is the Work. The Contract Documents constitute the entire agreement between Owner and Contractor. This Agreement may be amended only by written instrument signed by both parties. Modifications may be evidenced by facsimile signatures. If any provision of the Agreement or General Conditions shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and date first above written in a number of counterparts, each of which shall, without proof or accounting for other counterparts, be deemed an original contract.

ORANGE COUNTY:

CONTRACTOR:

By: _____
Chair, Orange County Board of County
Commissioners (BOCC)

By: _____
TBD
Printed Name and Title

Lake Orange - Dam Rehabilitation

| | | | | | |
|---------------------------------|--------------------|---------------------------|-----------|---------------------|---|
| Project Category | County | Project Status: | New | Project Type | |
| Functional Service Area: | Community Services | Proposed Bid Date: | TBD | | |
| Department: | Planning and | Starting Date: | 7/1/2019 | | |
| | Inspections | Completion Date: | 6/30/2025 | | |
| Project Number: | 10074 | | | | |
| | | | | New | |
| | | | | Expansion | |
| | | | | Renovation | X |
| | | | | Replacement | |

Project Description/Justification:

Lake Orange is a Class II (WS-II) public water supply reservoir owned by Orange County. The lake was created in 1968 via the construction of an earthen dam and concrete spillway across the east fork of the Eno River. The lake’s primary uses are public water supply as designated by North Carolina Department of Environmental Quality (NCDEQ) and maintenance of minimum (dry weather) flows in the Eno River, as defined within the Eno River Water Management Plan (a.k.a. the Eno River Capacity Use Agreement). The Lake Orange dam was classified by NCDEQ as a “High Hazard” dam in August 2011 which means that failure of the dam could result in severe property damage and/or possible loss of life downstream.



In Fall 2018, NCDEQ and a private engineering firm conducted dam inspections that identified numerous deficiencies, due to the age of this 52-year old structure. This project would represent a multi-year approach to repair these deficiencies, by continuing to address high priority needs in FY2021-22. The FY2021-22 proposal is to repair the existing erosion control barrier and the associated materials testing for a total request of \$360,000.

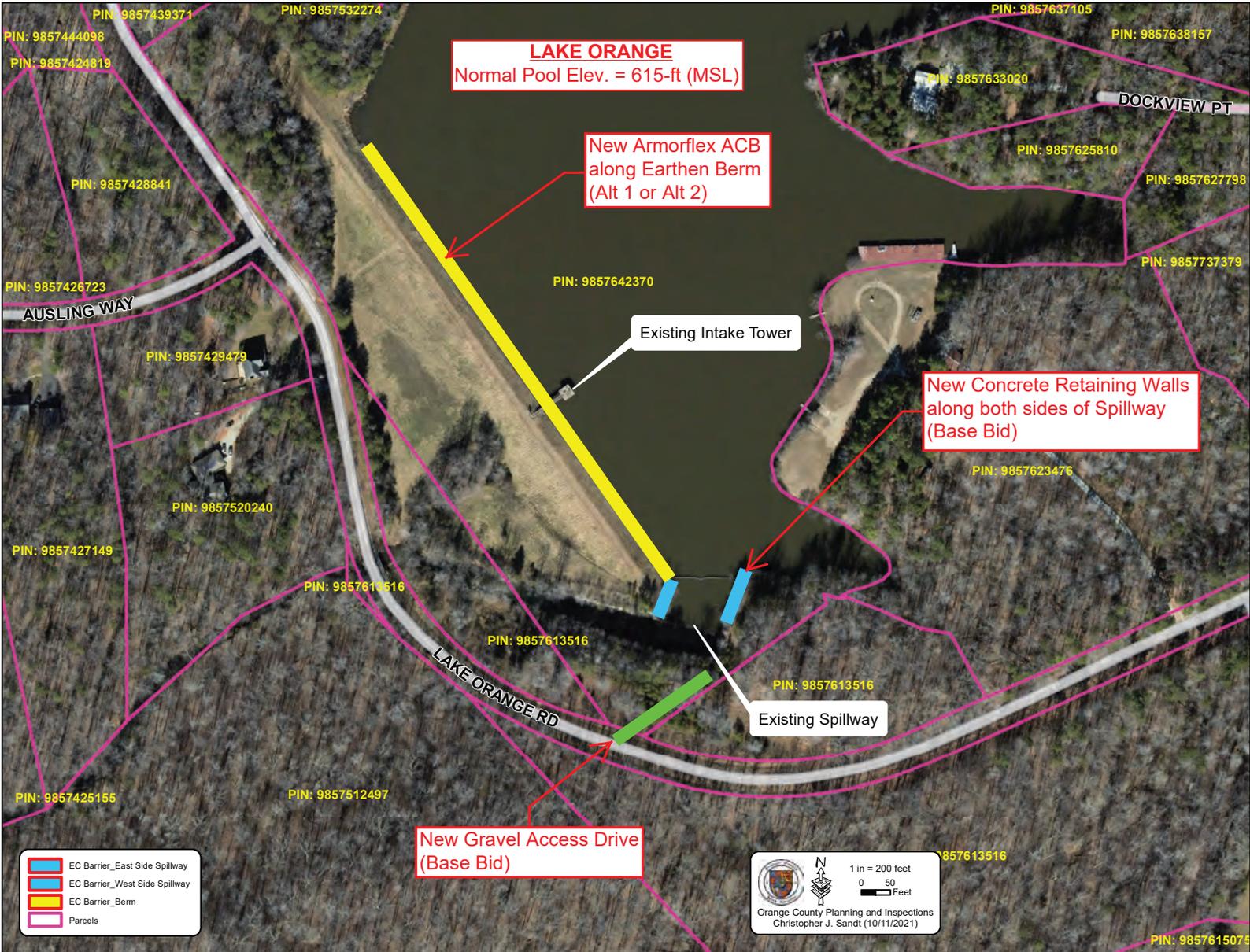
In Fall 2020, Orange County conducted additional inspections of the concrete spillway channel and intake tower as part of the data collection efforts related to existing professional engineering design contracts with two (2) separate qualified engineering firms. Detailed inspections revealed additional (previously unknown) structural deficiencies within the existing intake tower and along the concrete spillway channel. The FY2021-26 CIP has been completely re-assessed and re-prioritized from previous years, so as to address the most critical known structural deficiencies.

FINANCIAL SUMMARY

| Project Budget | Prior Years Funding | Current Fiscal Year 2020-21 | Year 1 Fiscal Year 2021-22 | Year 2 Fiscal Year 2022-23 | Year 3 Fiscal Year 2023-24 | Year 4 Fiscal Year 2024-25 | Year 5 Fiscal Year 2025-26 | Five Year Total | Year 6 to Year 10 |
|--|---------------------|-----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|-----------------|-------------------|
| Appropriation | | | | | | | | | |
| Professional Services | | | | | | | | | |
| CEI - EC Barrier Replacement | | | 20,000 | | | | | 20,000 | |
| CEI - Gate/Actuator Replacement | | | | 20,000 | | | | 20,000 | |
| CEI - Intake Tower Point Repairs | | | | 10,000 | | | | 10,000 | |
| CEI - Spillway Channel Point Repairs | | | | | 10,000 | | | 10,000 | |
| Engineering Design - Priority Projects | 90,000 | | | | | | | | |
| Replacement of Concrete Spillway Channel | | | | | | | | | 370,000 |
| Construction/Repairs/Renovations | | | | | | | | | |

| | | | | | | | |
|--|---------------|----------------|----------------|----------------|---------------|----------------|------------------|
| Blasting Painting of Intake Tower Bridge | | | | | | | 120,000 |
| Erosion Control Barrier Repair | 145,000 | | 330,000 | | | 330,000 | |
| Gate Actuator Replacement | | | | 125,000 | | 125,000 | |
| Intake Tower Demucking | 5,000 | | | | | | |
| Intake Tower Painting | | | | 50,000 | | 50,000 | |
| Sluice Gate Replacement | | | | 150,000 | | 150,000 | |
| Spillway Channel Point Repairs | | | | | 75,000 | 75,000 | |
| Spillway Channel Replacement | | | | | | | 1,750,000 |
| Project Management | | | | | | | |
| Materials Testing - Intake Tower Painting | | | | | | | 5,000 |
| Materials Testing - Erosion Control Barrier | 5,000 | | 10,000 | | | 10,000 | |
| Materials Testing - Spillway Channel Point Repairs | | | | 5,000 | | 5,000 | |
| Materials Testing - Spillway Channel Replacement | | | | | | | 50,000 |
| Appropriation Total | 95,000 | 150,000 | 360,000 | 360,000 | 85,000 | 805,000 | 2,295,000 |
| Revenues/Funding Source | | | | | | | |
| Debt Financing | 95,000 | 150,000 | 360,000 | 360,000 | 85,000 | 805,000 | 2,295,000 |
| Revenues/Funding Source Total | 95,000 | 150,000 | 360,000 | 360,000 | 85,000 | 805,000 | 2,295,000 |

Project Scope - Lake Orange Erosion Control Barrier Replacement Project



| | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|---|--|--|
| Orange County NC Bid No. 367-OC 5339: Lake Orange Erosion Control Barrier replacement | | | | | | | | | |  | | |
| Deadline: December 3, 2021 at 3:00 pm | | | | | | | | | | | | |

| Single Prime General Contractor | License No. | Certified Check - Bid Bond | E-verify Affidavit | Living Wage | Iran Divestment Certification | MBE | Nondiscrimination Certification | Addendum No 1 | Base Bid Total | Alternate 1 | Alternate 2 | Total |
|---------------------------------|-------------|-------------------------------|-----------------------|----------------|-------------------------------------|-----|------------------------------------|------------------|-------------------|-------------|-------------|-------------|
| | | | | | | | | | | | | |
| Fred Smith Company | 43848 | Y | Y | Y | Y | Y | Y | Y | \$446,579 | \$306,180 | \$540,950 | \$1,582,300 |
| Thalle Construction Co., Inc. | 35203 | Y | Y | Y | Y | Y | Y | Y | \$660,068 | \$472,228 | \$756,624 | \$1,768,541 |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |

Jovana Amaro
 Purchasing Agent

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No. 8-e**

SUBJECT: Approval of Trail Easement – Edward Johnson Property

DEPARTMENT: Environment, Agriculture, Parks
and Recreation (DEAPR)

ATTACHMENT(S):

1. Location Map
2. Site Map
3. Trail Easement

INFORMATION CONTACT:

David Stancil, 245-2510
Christian Hirni, 245-2514

PURPOSE: To accept a trail easement donation for the purpose of construction of a section of the NC Mountains-to-Sea Trail (MST).

BACKGROUND: Edward Johnson owns two parcels totaling approximately 62 acres adjacent to the Orange Water and Sewer Authority (OWASA) Cane Creek Reservoir lands in Bingham Township. OWASA currently holds a conservation easement on a portion of the land, which was amended to allow the Mountains to Sea Trail in July of 2020. During prior MST public meetings, Mr. Johnson declared an interest to also donate land for a trail easement along a section of Turkey Hill Creek for the MST. In the trail easement, the landowner retains ownership of the land and property rights not conveyed, but allows for the right of public access and the County's right to construct and maintain a trail for the purposes of the Mountains to Sea Trail. Because of the location near the intersection of Bradshaw Quarry Road and Buckhorn Road, and its adjacency to the OWASA Cane Creek Reservoir lands where the MST would traverse, it is a vital connection point for the MST in this area. Please see the attached maps.

FINANCIAL IMPACT: Since this is a trail easement donation, there is no purchase cost of the trail easement. Estimated closing costs (easement survey, title search, recording fees, etc.) are projected to be approximately \$15,000-\$20,000 to be paid from existing Mountains to Sea Trail capital project funds (current \$315,000 balance).

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impacts associated with this item.

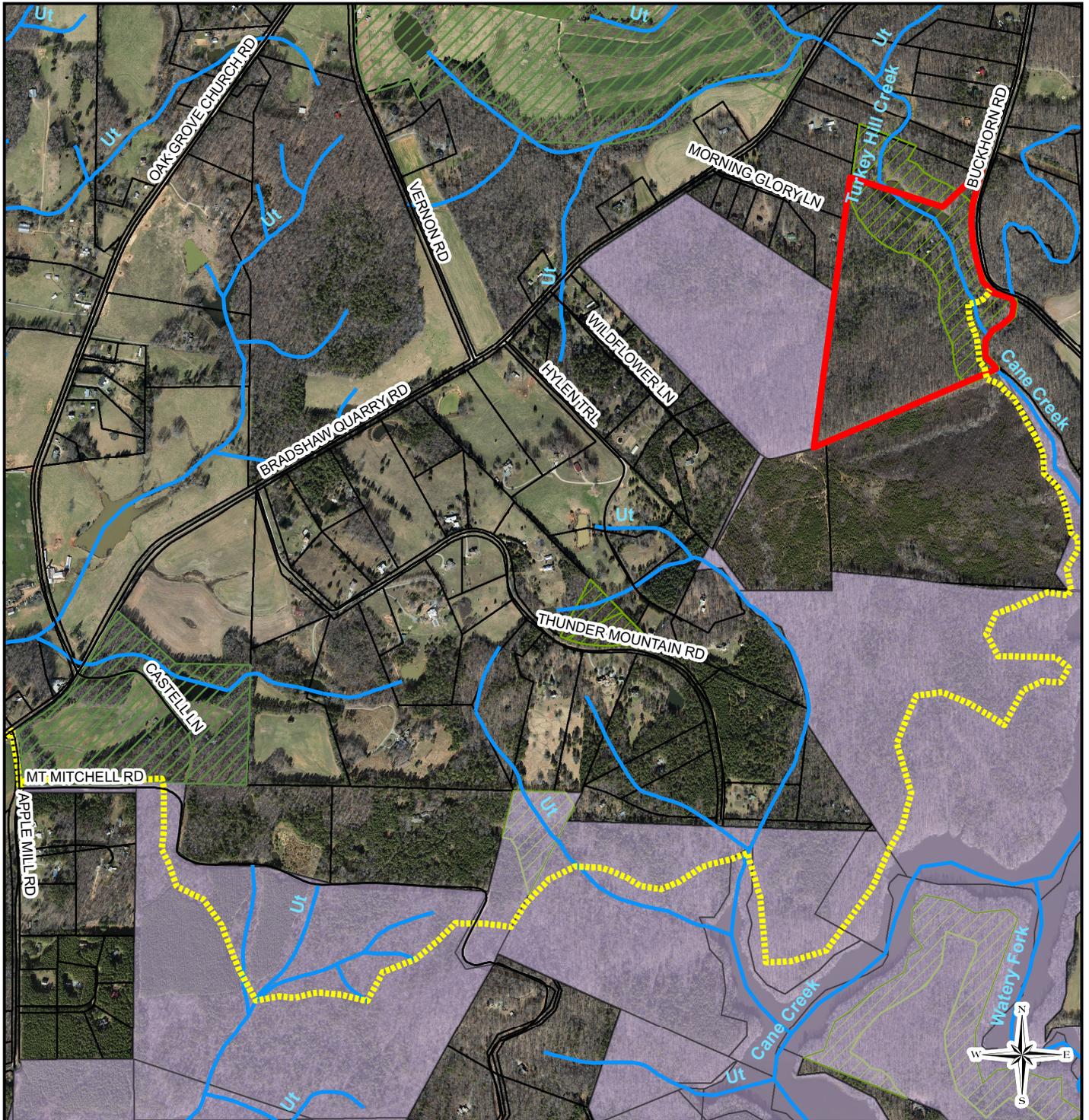
ENVIRONMENTAL IMPACT: The following Orange County Environmental Responsibility Goal impacts are applicable to this item:

- **CLEAN OR AVOIDED TRANSPORTATION**

Implement programs that monitor and improve local and regional air quality by: 1) promoting public transportation options; 2) decreasing dependence on single-occupancy vehicles, and 3) otherwise minimizing the need for travel.

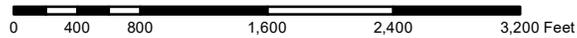
The acquisition of this and subsequent trail easements will progress the continued effort of a Statewide trail system, allowing for local and statewide “thru hiking”/foot travel opportunities and promoting healthy recreation for locals and visiting citizens between several municipalities and areas of natural and cultural interests.

RECOMMENDATION: The Manager recommends that the Board approve and authorize the Chair to sign acceptance of the MST trail easement donation, and authorize the expenditure of funds for closing costs as listed above, with expectation of final closing to occur before Spring 2022.



Tract Information:

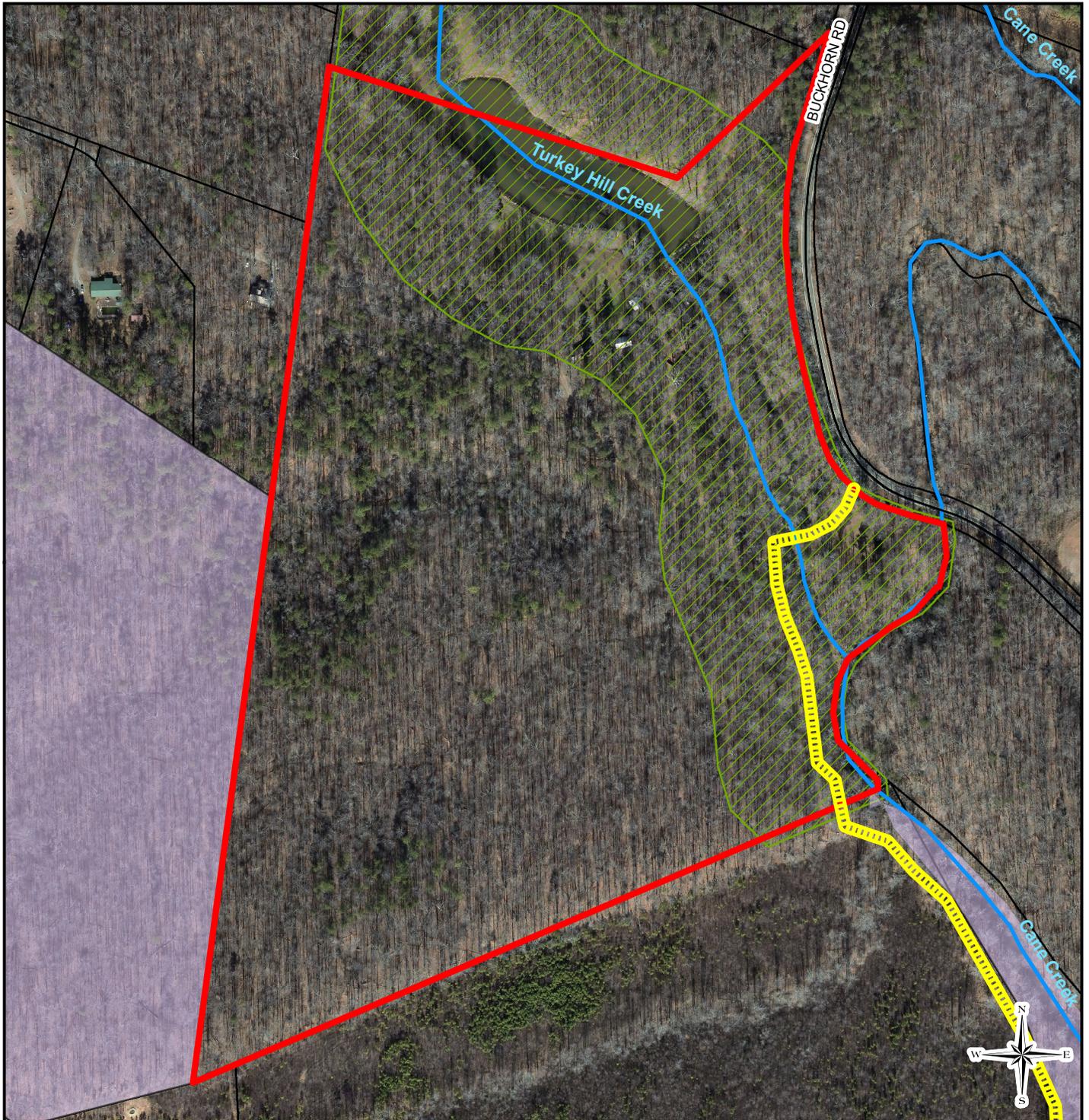
Landowner: Various
 Lat: 35' 59.22"
 Long: 79' 12.56"
 Date: 11/17/2021
 Image: 2017 Aerial Photo
 Created By: Christian Hirni
 Acres: N/A



Department of Environment,
 Agriculture, Parks & Recreation

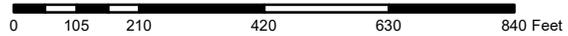
Legend

| | |
|--|------------------------|
| | Roads |
| | Proposed Trail Route |
| | Tract Boundary |
| | Streams |
| | Open Space- Other |
| | County Easements |
| | Conservation Easements |
| | Tax Parcels |



Tract Information:

Landowner: Edward Johnson
 Lat: 35' 59.22"
 Long: 79' 12.56"
 Date: 12/01/2021
 Image: 2017 Aerial Photo
 Created By: Christian Hirni
 Acres: .40 (Trail Easement)



Department of Environment,
 Agriculture, Parks & Recreation

| Legend | |
|--------|------------------------|
| | Roads |
| | 20 ft Trail Easement |
| | Adjusted Trail Route |
| | Tract Boundary |
| | Streams |
| | Open Space- Other |
| | Conservation Easements |
| | Tax Parcels |

This instrument prepared by and return to:

John L. Roberts, Office of the Orange County Attorney
PO Box 8181, Hillsborough, NC 27278

Christian Hirni, Land Conservation Manager
306A Revere Road, Hillsborough, NC 27278

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

PIN 9831842137

DEED OF TRAIL EASEMENT

This Deed of Trail Easement (“Easement”) is granted on this ___ day of _____, 2022, by **EDWARD S. JOHNSON**, having an address of 6000 Buckhorn Road, Hillsborough, NC 27278 (referred to as “Grantor”), to **ORANGE COUNTY, NORTH CAROLINA**, having an address of Post Office Box 8181, Hillsborough, NC 27278, (referred to herein as “Grantee”). The Grantor and Grantee are collectively referred to as “**The Parties**”.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successor and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

RECITALS

A. Grantor is the sole owner in fee simple of certain real property situated, lying, and being in Orange County, North Carolina, being more particularly described in that deed recorded in Deed Book 416, Page 534, Orange County Registry, North Carolina (hereinafter, the “Property”).

B. Grantee is an entity qualified to accept, hold and manage land and easements under the North Carolina Conservation and Historic Preservation Agreements Act, Chapter 121, Article 4 of the North Carolina General Statutes (the “Act”), which authorizes and permits the creation and enforcement of conservation easements for the purpose of, inter alia, retaining land areas predominantly in their historic, agricultural, natural, scenic, open or wooded condition.

C. Pursuant to the Act, Grantor desires to grant a trail easement over a certain portion of the Property, consisting of X acres, more or less, is the subject of this Easement and is marked on the plat of survey recorded in Plat Book _____, Page _____, Orange County Registry, and described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter referred to as the "Trail Area") within which a Trail may be constructed, thereby restricting and limiting the use of the Trail Area to the terms, conditions and purposes hereinafter set forth, and Grantee is willing to accept such easement.

D. Grantor and Grantee understand that the Trail Area overlaps with an existing conservation easement described in the "Conservation Easement" recorded in Book 2796, Page 575, Orange County Registry and marked on plat of survey recorded in Plat Book 94, Page 107, Orange County Registry. The Trail Area is restricted and limited in use in accordance with the terms and conditions of this easement as well as the conservation easement recorded in Book 2796, Page 575, including an amendment recorded in 6677, Page 1530, in the Orange County Registry.

E. By restricting and limiting the use of the Trail Area in accordance with the terms and conditions of this Easement, the Parties intend to preserve the natural features and resources of the Trail Area; protect the habitat of native plants and animals; sustain scenic values; maintain water quality and utilize the Trail Area for public educational, scientific and low-impact recreational pursuits (said purposes being hereinafter referred to as the "Conservation Values").

F. The Parties acknowledge and agree that (i) the recording of this Easement shall be conclusive evidence of its acceptance of same by Grantee; (ii) Grantee will be the "holder" (as that term is defined in the Act) of this Easement and (iii) Grantee is a "qualified organization" and "eligible donee" within the meaning of Section 170(h)(3) of the Internal Revenue Code (the "Code") and regulations promulgated thereunder.

G. Grantee intends to include the Trail within the Trail Area ("Trail") as part of the North Carolina Mountains-to-Sea Trail and Grantor and Grantee agree that such inclusion grants the Grantee, and its agents or representatives, the right to establish a trail for use by the general public within the Trail Area.

H. The undersigned Grantee acknowledges that Grantor has donated the easement contained herein over the Trail Area in accordance with the provisions of Article V of this Easement.

I. The Parties acknowledge and agree that as a component of the North Carolina Mountains-to-Sea Trail, the Trail Area, in accordance with Chapter 143B, of the North Carolina General Statutes, shall be subject to a general management plan devised by the North Carolina Department of Natural and Cultural Resources ("NCDNCR").

NOW, THEREFORE, for the reasons given and other good and valuable consideration and in consideration of their mutual covenants, terms, conditions and restrictions contained herein, Grantor hereby voluntarily grants and conveys to Grantee, its successors or assigns, and Grantee, its successors or assigns, hereby voluntarily accepts, forever and in perpetuity an Easement on the Property, which Easement is an immediately vested interest in real property of

the nature and character described herein, and a right-of-way over, under, and across the Trail Area. Grantor promises that they will not perform, nor knowingly allow others to perform, any act on or affecting the Trail Area that is inconsistent with the covenants contained herein. Grantor authorizes Grantee to enforce these covenants in the manner described below.

ARTICLE I. GENERAL

1.1. Statement of Purpose. The purposes of this Easement are to prevent any use of the Trail Area that will significantly impair or interfere with the Conservation Values and to allow for the inclusion of the Trail Area in the North Carolina Mountain-to-Sea Trail so that the Trail Area may be used for educational, scientific and low-impact recreational activities by the general public pursuant to a general management plan that is consistent with the Conservation Values. Grantor intends that this Easement will restrict the use of the Trail Area to such activities as are consistent with these purposes. Grantee agrees that this Easement shall be held exclusively for the purposes set forth herein and as specified in Section 170(h)(4)(A) (or any successor section) of the Code and shall be construed to promote the purposes of the Act.

1.2. Perpetual Duration. This Easement over the Trail Area as further described in **Exhibit A**, shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor as provided herein, and against Grantor's representatives, successors, assigns, leases, agents and licensees.

1.3. Compliance with other Regulatory Requirements. The Grantor is responsible for complying with any and all additional permits or regulation to use or develop the Trail Area under the terms of this Easement, including Orange County, State of North Carolina or Federal requirements, regardless of any reserved rights or permissions contained in this Easement document.

ARTICLE II. RESERVED RIGHTS OF GRANTOR

Subject to the terms, conditions and restrictions contained herein, Grantor reserves for itself and its successors and assigns the following rights:

2.1. Quiet Enjoyment. All rights accruing from Grantor's fee ownership of the Trail Area, including the right to engage in or permit or invite others to engage in all uses of the Trail Area that are consistent with the Conservation Values, including any reasonable use of the Property that will not interfere with the trail and is not otherwise prohibited by the terms of this Easement.

2.2. Educational and Recreational Uses. Utilization of the Trail Area for scientific, educational and low-impact recreational activities to the same extent the Trail Area is utilized by Grantee for such purposes; specifically, Grantor retains the right to engage in and permit others to engage in such activities that may include, without limitation, walking, hiking, plant and animal observation and study.

2.3. Driveway Use. Utilization of the "driveway" identified on the plat of survey recorded in Orange County Registry, for purposes of ingress and egress to Buckhorn Road.

2.4. Vegetation Removal. Cutting or clearing of vegetation for insect or disease control, control of non-native plants, removal of trees that threaten to fall on the Trail Area or on land outside the boundaries of the Trail Area. Grantor does not assume any responsibility or liability to the general public for failing to do so.

2.5. Transfer. Grantor retains the right to sell, give, mortgage, lease, or otherwise convey the Trail Area subject to the terms of this Easement.

2.6. Trail Relocation. Grantor may relocate the Trail subject to the following conditions.

- (a) Grantor may, upon consultation with and consent of the Grantee, relocate the Trail within the Trail Area. End points of the Trail must remain in the same location as when originally constructed by Grantee. Grantor shall be responsible for all costs and expense associated with relocating the Trail. Such relocation shall include relocation of Trail signs and facilities, and associated costs. Should the Trail be relocated it must be constructed to the same standards and specifications as were applied in the original Trail construction. Consent of the Grantee shall not be unreasonably withheld.
- (b) Any relocation of the Trail exercised pursuant to this option shall not hinder or impede access to or use of the Trail through the Trail Area. The constructed Trail shall remain open to use until such time as the relocated Trail is complete and ready for use.

ARTICLE III. RESERVED RIGHTS OF GRANTEE

Grantor is not responsible for costs associated with construction and maintenance of the Trail or improvements or accessory facilities of the Trail except for improvements resulting from Grantor exercising a reserved right such as the right to relocate the Trail. Grantee reserves for itself and its successors and assigns the following rights:

3.1. Improvements. Grantee reserves the right to construct a trail as follows:

- (a) The Trail shall be constructed of a pervious surface, no more than four (4) feet in trail width and in accordance with best management practices to minimize soil erosion and water quality impacts.
- (b) The Trail may be covered, if at all, by wood chips, gravel, or other porous surface.
- (c) The Trail may include steps and railings and other trail surface structures necessary to facilitate safe passage, as well as bridges and boardwalks for crossing streams within the Trail Area. Bridges must be simple footbridges, not involving land disturbing activities other than postholes or bridge supports.

3.2. Accessory Facilities. Grantee reserves the right to add the following to the Trail Area:

- (a) A reasonable number of benches.
- (b) Signs to mark the Trail and provide information regarding applicable time, place, and manner restrictions.

- (c) Signs for interpretive purposes and to indicate the interest of Grantee in the Trail Area.
- (d) Boardwalks, ramps, handrails, gates and barriers to control access.

ARTICLE IV. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the Trail Area inconsistent with the purposes of this Easement is prohibited. Other than as provided herein, the Trail Area shall be maintained in its natural, scenic, wooded and open condition and restricted from any use that would impair or interfere with the Conservation Values or the purposes of this Easement. Except for those rights specifically reserved to Grantor in Article II and without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted as indicated:

4.1. Trail Area Use. Access to the Trail Area by the general public is subject to the following limitations:

- (a) The Trail may be used only for walking, nature study, and the like.
- (b) Use is limited to the hours between dawn and dusk.
- (c) Smoking or lighting of fires is prohibited.
- (d) Consumption of alcoholic beverages is prohibited.
- (e) Trapping or hunting is prohibited.

4.2. Mechanized Vehicles. There shall be no use of motorized or mechanized vehicles on the Trail Area except as necessary for the construction, maintenance, operation and management of the North Carolina Mountains-to-Sea Trail, construction of a pedestrian bridge, and the Grantor's use of the driveway identified on the plat of survey recorded in Plat Book _____, Page _____, Orange County Registry as described herein. Bicycles are considered to be mechanized vehicles for the purposes of this Easement.

4.3. Industrial or Commercial Use: Industrial and commercial activities are prohibited in the Trail Area.

4.4. Residential Use, Structures, and Signs. There shall be no residential use of the Trail Area. There shall be no constructing or placing of any building, mobile home, billboard or other advertising display, antenna, utility pole, tower, conduit line, or any other temporary or permanent structure or facility on or above the Trail Area except for the following: placement and display of no trespassing signs, local, state or federal traffic or similar informational signs, boundary fencing, signs identifying the Conservation Values of the Trail Area, and/or signs identifying Grantor as owner of the Property and Grantee as holder of this Easement, signs identifying the Trail Area as a part of the North Carolina Mountains-to-Sea Trail, signs giving directions or prescribing rules and regulations for the use of the Trail Area, educational and interpretative signs, identification labels or any other similar temporary or permanent signs.

4.5. Agricultural, Timber Harvesting, Grazing and Horticultural Use. Agricultural, timber harvesting, grazing, horticultural and animal husbandry operations are prohibited; provided that this provision shall not prohibit plantings for wildlife habitat or wildlife management.

4.6. Disturbance of Natural Features, Plants and Animals. There shall be no cutting or removal of trees, or the disturbance of other natural features on the Trail Area except for the following: (i) as incidental to boundary marking or railing as allowed hereunder; and (ii) cutting or clearing of vegetation for insect or disease control, control of non-native plants, removal of trees that threaten to fall on the Trail Area or on land outside the boundaries of the Trail Area and as necessary for the construction, maintenance, operation and management of the North Carolina Mountains-to-Sea Trail. Design and construction of the North Carolina Mountains-to-Sea Trail will be planned and built to minimize environmental impacts to the extent practical.

4.7. Wetlands and Water Quality. There shall be no pollution or alteration of water bodies and no activities that would be detrimental to water purity or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Trail Area or into any surface waters, or cause soil degradation or erosion nor diking, dredging, alteration, draining, filling or removal of wetlands, except activities related to construction of a pedestrian bridge as set for the above and activities to restore natural hydrology or wetlands enhancement as permitted by Grantee and appropriate governmental authorities.

4.8. Dumping and Filling. The dumping, accumulation, storage, or burying of soil, trash, ashes, garbage, waste, appliances, abandoned or unlicensed vehicles, inoperable or broken machinery, debris, junk, radioactive or hazardous waste, or other materials on the Trail Area is prohibited. Automobiles, trailers, machinery and recreational vehicles shall not be stored on the Trail Area.

4.9. Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat minerals or other minerals, and no change in the topography of the Trail Area in any manner except as reasonably necessary for the purposes of combating erosion and as reasonably necessary for any activities otherwise permitted on the Trail Area pursuant to the terms of this Easement.

ARTICLE V. FEDERAL TAX ITEMS

5.1. Qualified Conservation Contribution. The Easement granted under this agreement has been donated in whole or in part to Grantee by the undersigned Grantor. It is intended to qualify as a charitable donation of a partial interest in real estate (as defined under §170(f)(3)(B)(iii) of the Code) to a qualified organization (as defined in §1.170A-14(c)(1) of the Regulations).

5.2. Definitions of Code and Regulations. “Code” means the Internal Revenue Code of 1986, as amended through the applicable date of reference. “Regulations” mean the provisions of C.F.R. §1.170A-14 as amended through the applicable date of reference.

5.3. Public Benefit. This easement is given for public outdoor recreation and education and is for the substantial and regular use of the general public or the community. This Easement provides significant public benefit as defined in §1.170A-14(d)(2)(i) of the Regulations. Public policies and programs that illustrate and support the significant public benefit of this Easement include:

- (a) The 2030 Orange County Comprehensive Parks and Recreation Master Plan, which recommends the development of a master plan for the Orange County segment of the Statewide Mountains-to-Sea Trail as well as linking to the priorities set forth in the existing North Carolina State Trails Program; and
- (b) The Orange County Board of Commissioners' goal (adopted June 21, 1999) to identify and coordinate the preservation of the County's most significant natural areas; and
- (c) The Land Use Element of the Orange County Comprehensive Plan (adopted November 18, 2008) with its goal of "Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character;" and
- (d) The Orange County Lands Legacy Action Plan, which was adopted by the Orange County Board of Commissioners on December 12, 2017, and which sets an objective to acquire key parcels needed for a public pedestrian trail and wildlife corridor that would connect Hillsborough Riverwalk to the Haw River for the planned North Carolina Mountains-to-Sea Trail; and
- (e) N.C.G.S. § 113-34.1 authorizing the Department of Environment and Natural Resources to develop and maintain the North Carolina Mountains-to-Sea Trail, of which this easement will be a part.

5.4. Mineral Interests. No Person has retained a qualified mineral interest in the Trail Area of a nature that would disqualify the Easement for purposes of §1.170A-14(g)(4) of the Regulations.

5.5. Notice Required Under Regulations. To the extent required for compliance with §1.170A-13(g)(4)(ii) of the Regulations, Grantor agrees to notify Grantee before exercising any reserved right that may have an adverse impact on the conservation interests or public recreational purposes associated with the Trail Area.

5.6. Trail Area Right. In accordance with §1.170A-14(g)(6) of the Regulations, the undersigned Grantor agrees that the Easement granted under this agreement gives rise to a property right, immediately vested in the Grantee, that entitles the Grantee to compensation upon extinguishment of the easement. The fair market value of the property right is to be determined in accordance with the Regulations; i.e., it is at least equal to the proportionate value that this easement as of the Easement Date bears to the value of the Property as a whole as of the Easement Date. Grantee must use any funds received by application of this provision in a manner consistent with the recreational and conservation purposes of this Easement.

5.7. Qualification Under §2031(C) of the Code. To the extent required to qualify for exemption from federal estate tax under §2031(c) of the Code, and only to the extent such

activity is not otherwise prohibited or limited under this Easement, Grantor agrees that commercial recreational uses are not permitted within the Trail Area.

ARTICLE VI. ONGOING RESPONSIBILITY OF GRANTOR AND GRANTEE

This Easement is not intended in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:

6.1. Taxes. Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If Grantee is ever required to pay any taxes or assessments on their interest in the Property, Grantor shall upon demand reimburse Grantee for the same.

6.2. Upkeep and Maintenance. Trail Area shall be maintained so as to not interfere with the intended use of the trail and amenities.

(a) Grantors shall continue to be solely responsible for the upkeep and maintenance of the Trail Area apart from the trail and amenities. Grantee shall have no obligation for the upkeep or maintenance of the Trail Area, except as described herein.

(b) Grantee shall be solely responsible for construction, upkeep, and maintenance of the Trail and Amenities, except as described herein. Grantee shall make periodic inspections to ensure the upkeep and maintenance of the Trail and Amenities. Upon notice from Grantors of any upkeep or maintenance issue, Grantee shall make additional inspection and plan of remediation. Such plan of remediation shall occur within one year of notice.

6.3. Transfer of Trail Area. Grantor agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which they transfer or divest themselves of any interest, including leasehold interests, in the Trail Area. Grantor shall notify Grantee in writing at least thirty (30) days before conveying the Trail Area, or any interest therein. Failure of Grantor to do so shall not impair the validity of the Easement or limit its enforceability in any way.

6.4. Transfer of Easement. Grantee shall have the right to transfer this Easement to any public agency or private nonprofit organization that, at the time of transfer, is a qualified organization under 26 U.S.C. Section 170(h) of the Internal Revenue Code, as amended and under NGS 121-34 *et seq.*, provided the agency or organization expressly agrees to assume the responsibility imposed on Grantee by this Easement. As a condition of such transfer, Grantee shall require that the conservation purposes intended to be advanced hereunder shall be continued to be carried out. If Grantee ever cease to exist or no longer qualify under 26 U.S.C. Section 170(h) of the Internal Revenue Code, or applicable state law, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed by the Easement.

6.5. Inspection and Access. With reasonable advance notice to the Grantor or with Grantor's prior verbal consent, Grantee, their employees and agents, successors and assigns, shall have the right to enter the Trail Area for the purpose of inspecting the Trail Area to determine whether Grantor, their successors or assigns are complying with the terms, conditions and restrictions of this Easement.

6.6. Enforcement. Grantee shall have the responsibility for management, monitoring and enforcement of the terms of this Easement. Grantee shall complete and file the monitoring reports, a copy of which is kept on file with Orange County.

Grantee shall have the right to prevent violations and remedy violations of the terms of this Easement through judicial action, which shall include, without limitation, the right to bring proceedings in law or in equity against any party or parties attempting to violate the terms of this Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Trail Area, Grantee shall give Grantor written notice of the violation and Grantor shall have thirty (30) days to cure the violation, before commencing any legal proceedings. If a court of competent jurisdiction determines that a violation may exist or has occurred, Grantee may obtain an injunction to stop the violation, temporarily or permanently. The parties agree that a court may issue an injunction or order requiring Grantor to restore the Trail Area to its condition prior to the violation, as restoration of the Trail Area may be the only appropriate remedy. The failure of Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time. In any case where a court finds no such violation has occurred, each party shall bear its own costs. In any case where the Court finds that a violation has occurred, Grantee shall have the right to recover its legal costs from Grantor, including attorney's fees or expenses associated with any enforcement or remedial action as it relates to the enforcement of this Easement.

ARTICLE VII. REPRESENTATIONS OF THE PARTIES

7.1. Grantor's Title Warranty. Grantor covenants, represents and warrants (i) that it is the sole owner and is seized of the Trail Area in fee simple and has the right to grant and convey this Easement; (ii) that there is legal access to the Trail Area; (iii) that the Trail Area is free and clear of any and all encumbrances, except those permitted title exceptions listed on **Exhibit B**, attached hereto and incorporated herein by this reference, none of which would nullify, impair or limit in any way the terms or effect of this Easement; (iv) Grantor shall defend its title to the Trail Area against the claims of all persons whomsoever; and (v) Grantor covenants that Grantee, its successors and assigns, shall have the use of and enjoy all of the benefits derived from and arising out of this Easement.

7.2. Grantor's Environmental Warranty. Grantor knows of no release or threatened release of any Hazardous Materials on, at, beneath or from the Trail Area, or arising from or connected with a violation of any Environmental Laws. Grantor hereby promise to hold harmless and indemnify Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release by

Grantor, their agents, assigns, and guests, of any Hazardous Materials on, at, beneath or from the Trail Area, or arising from or connected with a violation of any Environmental Law.

“Environmental Law” or “Environmental Laws” means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

7.3. Liability. Grantor has entered into this Easement in order to make the Trail Area available to the public for recreational and educational purposes as contemplated by Chapter 38A and Section 143B-135.118 of the North Carolina General Statutes and therefore is afforded the statutory limitations upon liability of an “owner” under those provisions as they may be amended from time to time.

ARTICLE VIII. MISCELLANEOUS

8.1. Recording. Grantee shall record this instrument in a timely fashion in the official record of Orange County, North Carolina, and may re-record it at any time as may be required to preserve the rights of the Grantee.

8.2. Survival of Terms/Merger of Fee and Easement. Grantor and Grantee agree that the terms of this Easement shall survive any merger of this fee and easement interest in the Trail Area. In the event Grantee becomes owner of the Trail Area, or any portion thereof, Grantee shall transfer its rights title and interest in this Easement to a third party in accordance with sections 6.4.

8.3. Amendment of Easement. This Easement may be amended only with the written consent of the Grantor and Grantee. Any such amendment shall be consistent with the purposes of this Easement and shall comply with Sec. 170(h) of the Internal Revenue Code, or any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with the Uniform Conservation and Historic Preservation Agreements Act, N.C.G.S. Section 121-34 *et seq.*, or any regulations promulgated pursuant to that law. The Grantor and Grantee have no right or power to agree to any amendment that would affect the enforceability of this Easement.

8.4. Procedure in the Event of Termination of Easement. If the North Carolina Mountains-to-Sea Trail is not routed through the Trail Area within four (4) years of the execution of this Easement and both Grantor and Grantee agree, this Easement may be terminated.

If it is determined that conditions on or surrounding the Trail Area have changed so much that it is impossible to fulfill the conservation purposes set forth above, a court with jurisdiction may, at the joint request of both the Grantor and Grantee, terminate this Easement.

If condemnation of a part of the Trail Area or of the entire Property by public authority renders it impossible to fulfill any of these conservation purposes, the Easement may be terminated through condemnation proceedings.

8.5. Interpretation. This Easement shall be interpreted under the laws of the State of North Carolina, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

8.6. Perpetual Duration; Severability. The Easement created by this Deed shall be a servitude running with the land in perpetuity. Every provision of this Deed of Trail Easement that applies to the Grantor or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Invalidity of any of the covenants, terms or conditions of this Easement, or any part thereof by court order or judgment shall in no way affect the validity of any of the other provisions hereof, which shall remain in full force and effect.

8.7. Subsequent Liens on the Trail Area. No provision of this Easement should be construed as impairing the ability of Grantor to use the Trail Area as collateral for subsequent borrowing. Any such liens shall be and remain subordinate to this Easement.

8.8. Subsequent Easements/Restrictions on the Trail Area. The grant of any easement or use restriction that might diminish or impair the Conservation Values of the Trail Area is prohibited. Any such easement or restriction shall be subordinated to this Easement.

8.9. Notices. Any notices required by this Easement shall be in writing and shall be personally delivered or sent by first class mail to Grantor or Grantee respectively, at the following address, unless a party has been notified in writing by the other of a change of address.

To the Grantor:

Edward S. Johnson
6000 Buckhorn Road
Hillsborough, NC 27278

To the Grantee:

Orange County DEAPR
PO Box 8181
Hillsborough, NC 27278

8.10. Entire Agreement. This instrument sets forth the entire agreement of the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Easement. If any provision is found to be invalid, the remainder of the

provisions of this Easement, and the application of such provision to persons of circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

8.11. Availability or Amount of Tax Benefits. Grantee make no warranty, representation or other assurance regarding the availability, amount or effect of any deduction, credit or other benefit to Grantor or any other person or entity under United States or any state, local or other tax law to be derived from the donation of any part of the value of this Easement or other transaction associated with the donation of this Easement. Grantor's donation is not conditioned upon the availability or amount of any such deduction, credit or other benefit. Grantee makes no warranty, representation or other assurance regarding the value of this Easement or of the Trail Area. As to all of the foregoing, Grantor is relying upon Grantor's own legal counsel, accountant, financial advisor or other consultant and not upon Grantee's legal counsel, accountant, financial advisor or other consultant of Grantee. In the event of any audit or other inquiry of a governmental authority into the effect of this donation upon the taxation or financial affairs involving Grantor or Grantor's heirs, successors or assigns or other similar matter then Grantee shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever incurred by Grantee in responding or replying thereto.

8.12. Warranties and Representations of Owner. By signing this Easement, Grantor acknowledges, warrants and represents to Grantee that:

- (a) Grantor has had the opportunity to be represented by counsel of Grantor's choosing and fully understand that Grantor is hereby permanently relinquishing property rights which would otherwise permit Grantor to have a fuller use and enjoyment of the Trail Area.
- (b) There are no recorded or unrecorded leases or other agreements for the production of minerals or removal of timber from the Trail Area which would, if any of the activities permitted under such lease or other agreement were undertaken by Grantor, violate the covenants or restrictions in this Easement or otherwise defeat the conservation Purpose.

TO HAVE AND TO HOLD this Deed of Conservation Easement unto Grantee, their successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTOR:

Edward S. Johnson

Accepted:

GRANTEE:

ORANGE COUNTY, NORTH CAROLINA

By: _____
Renee Price, Chair
Orange County Board of Commissioners

ATTEST:

By: _____
Laura Jensen, Clerk to the
Board of Commissioners

Acknowledgments

NORTH CAROLINA
COUNTY OF ORANGE

I, _____, a Notary Public for said County and State do hereby certify that _____ personally appeared before me and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this the ____ day of _____, 2022.

Notary Public

My commission expires:

NORTH CAROLINA
COUNTY OF ORANGE

I, _____, a Notary Public of Orange County, North Carolina do hereby certify that Laura Jensen personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners for Orange County, North Carolina and that by authority duly given and as the act of Orange County, North Carolina the foregoing instrument was signed in its name by the Chair of the Orange County Board of Commissioners, and attested by her as Clerk to said Board of Commissioners.

Witness my hand and official stamp or seal this the ____ day of _____, 2022.

Notary Public

My commission expires:

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No.** 8-f

SUBJECT: Contract for the Development of a Solid Waste Master Plan

DEPARTMENT: Solid Waste

ATTACHMENT(S):
Contract with Attachments

INFORMATION CONTACT:
Robert Williams, 919-918-4904

PURPOSE: To approve and authorize the County Manager to sign a contract with Gershman, Brickner & Bratton, Inc. (“GBB”) for the development of a Solid Waste Master Plan.

BACKGROUND: Orange County issued a Request for Proposals (RFP) on April 9, 2021 for development of a Solid Waste Master Plan to create a plan that moves the County to “zero waste” by 2045. As approved by the Solid Waste Advisory Group, the overarching goals for the solid waste master plan and its development are as follows:

- Goal 1.** Develop a comprehensive and easily understandable Solid Waste Master Plan, with identifiable action items and a plan summary;
- Goal 2.** Develop a comprehensive strategy that by 2045 will lead to “Zero Waste,” as defined by the County;
- Goal 3.** Integrate the Plan’s efforts with the ongoing climate action plans of the County, the Municipalities, the University and the University Health Care system.
- Goal 4.** Select a sustainable business model that incorporates the financial, social and environmental; including carbon footprint reduction impacts on our community;
- Goal 5.** Identify future programs, initiatives, facilities, and infrastructure to achieve the “Zero Waste” goal, as defined by the County, while ensuring the long-term financial stability of the County’s solid waste and recycling program;
- Goal 6.** Identify strategies to increase public education and participation in waste reduction and waste diversion programs through awareness of reduction, reuse, recycling and composting; while addressing ordinance and enforcement requirements;

- Goal 7.** Develop and include an equitable comprehensive public engagement process that effectively includes input by the general public, including groups that historically have been marginalized, and key interest groups, including the municipal and university partners, and keeps the public informed and updated on the process; and
- Goal 8.** Ensure all proposed programs and policies are in regulatory compliance with local, state and federal requirements.

Six firms responded to the Request for Proposals, and after review by staff and representatives from Chapel Hill, Carrboro and Hillsborough, the firm of Gershman, Brickner & Bratton, Inc. (GBB) was selected to develop the plan.

GBB was established in 1980 and is a national solid waste management consulting firm. The firm's focus is planning and implementing solid waste management projects, including solid waste management and recycling plans, cost-of-service and full-cost accounting analyses, waste reduction initiatives, solid waste and recyclables collection systems, and analysis, procurement, development and construction and operations monitoring of composting, transfer station, landfill, resource recovery, and materials recovery facilities.

In GBB's response to the RFP, the firm stated it understood that sustainability was not just about recycling, but about the interplay of many forces: social, economic, and environmental. GBB will team with a Certified Woman-owned Business Enterprise and a Certified Micro Business Enterprise (River District Consulting Group) to aid with the development of a plan to engage the Orange County community including the engagement of historically marginalized groups.

FINANCIAL IMPACT: The financial impact will be \$295,000 for development and presentation of a Solid Waste Master Plan.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice impact associated with this item.

ENVIRONMENTAL IMPACT: The following Orange County Environmental Responsibility Goal impacts are applicable to this item:

- **ENERGY EFFICIENCY AND WASTE REDUCTION**
Initiate policies and programs that: 1) conserve energy; 2) reduce resource consumption; 3) increase the use of recycled and renewable resources; and 4) minimize waste stream impacts on the environment.

RECOMMENDATION(S): The Manager recommends that the Board approve and authorize the Manager to sign the Contract with Gershman, Brickner & Bratton, Inc. (GBB) for the development and presentation of a Solid Waste Master Plan.

[Departmental Use Only]
 TITLE SWMP
 FY

NORTH CAROLINA

SERVICES AGREEMENT RFP/RFQ

ORANGE COUNTY

This Services Agreement (hereinafter "Agreement"), made and entered into this _____ day of _____, 2021, ("Effective Date") by and between Orange County, North Carolina a political subdivision of the State of North Carolina (hereinafter, the "County") and Gershman, Brickner & Bratton, Inc. ("GBB"), (hereinafter, the "Provider").

WITNESSETH:

That the County and Provider, for the consideration herein named, do hereby agree as follows:

1. Services

a. Scope of Work.

- i) This Services Agreement ("Agreement") is for services to be rendered by Provider to County with respect to (*insert type of project*): Development of a Solid Waste Master Plan.
- ii) By executing this Agreement, the Provider represents and agrees that Provider is qualified to perform and fully capable of performing and providing the services required or necessary under this Agreement in a fully competent, professional and timely manner.
- iii) Time is of the essence with respect to this Agreement.
- iv) The services to be performed under this Agreement consist of Basic Services, as described and designated in Section 3 hereof. Compensation to the Provider for Basic Services under this Agreement shall be as set forth herein.

2. Responsibilities of the Provider

- a. Services to be provided. The Provider shall provide the County with all services required in Section 3 to satisfactorily complete the Project within the time limitations set forth herein and in accordance with the highest professional standards.
- b. Standard of Care.
 - i) The Provider shall exercise reasonable care and diligence in performing services under this Agreement in accordance with the highest generally accepted standards of this type of Provider practice throughout the United States and in accordance with applicable federal, state and local laws and regulations applicable to the

performance of these services. Provider is solely responsible for the professional quality, accuracy and timely completion and submission of all work related to the Basic Services.

- ii) Provider shall be responsible for all errors or omissions of its agents, contractors, employees, or assigns in the performance of the Agreement. Provider shall correct any and all errors, omissions, discrepancies, ambiguities, mistakes or conflicts at no additional cost to the County.
- iii) The Provider shall not, except as otherwise provided for in this Agreement, subcontract the performance of any work under this Agreement without prior written permission of the County. No permission for subcontracting shall create, between the County and the subcontractor, any contract or any other relationship.
- iv) Provider is an independent contractor of County. Any and all employees of the Provider engaged by the Provider in the performance of any work or services required of the Provider under this Agreement, shall be considered employees or agents of the Provider only and not of the County, and any and all claims that may or might arise under any workers compensation or other law or contract on behalf of said employees while so engaged shall be the sole obligation and responsibility of the Provider.
- v) If activities related to the performance of this Agreement require specific licenses, certifications, or related credentials Provider represents that it or its employees, agents and subcontractors engaged in such activities possess such licenses, certifications, or credentials and that such licenses certifications, or credentials are current, active, and not in a state of suspension or revocation.
- vi) Should this Agreement involve project designs, the construction or creation of which is to be bid out or fulfilled by other contractors, and bidding or negotiation with contractors produce prices which, when added to the other elements of the approved total project cost, produce a cost that is in excess of the approved total project cost, the Provider shall participate with the County in negotiation and design adjustments to the extent such are necessary to obtain prices within the approved total project cost. All activity of the Provider with respect to these matters shall constitute Basic Services and shall be performed by the Provider without additional compensation. If negotiation and design adjustments fail to bring costs within the total project cost the County may reject all bids and Provider will redesign or reduce portions of the project in an effort to reduce the bid prices to within the total project cost and rebid the project. One such redesign is included within Basic Services. If this second letting for bids does not produce bids that are within the approved total project cost initially or after negotiations with the contractor the cost is not reduced to an amount within the total project cost, the Provider is not obligated to engage in further redesign.

3. Basic Services

- a. Basic Services.

- i) The Provider shall perform as Basic Services the work and services described herein and as specified in the County’s Request for Proposals or Request for Qualifications (the “RFP”) “RFP Number 367-OC 5309 for “Solid Waste Master Plan” issued February 19, 2021, and the Provider’s proposal, which are fully incorporated and integrated herein by reference together with Attachments 1 and 2 (designate all attachments). In the event a term or condition in any referenced document or attachment conflicts with a term or condition of this Agreement the term or condition in this Agreement shall control. Should such conflict arise the priority of documents shall be as follows: This Agreement, the County’s RFP together with attachments, Provider’s Proposal together with attachments.
- ii) The Basic Services will be performed by the Provider in accordance with the following schedule: (Insert milestones task list, dates and fees. If milestones are not established mark N/A under Milestone Task 1.)

| <u>Milestone Task</u> | <u>Milestone Date</u> | <u>Milestone Fee</u> |
|---|-----------------------|----------------------|
| 1. See attached Tasks, Dates and Fees set forth on Attachment 1 and 2 | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

- iii) Should County reasonably determine that Provider has not met the Milestone Dates established in Section 3(a)(ii), County shall notify Provider of the failure to meet the Milestone Date. The County, at its discretion may provide the Provider seven (7) days to cure the breach. County may withhold the accompanying payment without penalty until such time as Provider cures the breach. In the alternative, upon Provider’s failure to meet any Milestone Date the County may modify the Milestone Date schedule. Should Provider or its representatives fail to cure the breach within seven (7) days, or fail to reasonably agree to such modified schedule, County may immediately terminate this Agreement in writing, without penalty or incurring further obligation to Provider. This section shall not be interpreted to limit the definition of breach to the failure to meet Milestone Dates.

4. Duration of Services

- a. Term. The term of this Agreement shall be from January 1, 2022 to June 30, 2023.
- b. Scheduling of Services
- i) The Provider shall schedule and perform its activities in a timely manner so as to meet the Milestone Dates listed in Section 3.

- ii) Should the County determine that the Provider is behind schedule, it may require the Provider to expedite and accelerate its efforts, including providing additional resources and working overtime, as necessary, to perform its services in accordance with the approved project schedule at no additional cost to the County.
- iii) The Commencement Date for the Provider's Basic Services shall be January 1, 2022.

5. Compensation

- a. Compensation for Basic Services. Compensation for Basic Services shall include all compensation due the Provider from the County for all services satisfactorily (as determined by the County) performed pursuant to this Agreement. The maximum amount payable for Basic Services is Two Hundred Ninety Five Thousand Dollars (\$295,000.00). In the event the amount stated on an invoice is disputed by the County, the County may withhold payment of all or a portion of the amount stated on an invoice until the parties resolve the dispute. Payment for Basic Services shall become due and payable in direct proportion to satisfactory services performed and work accomplished. Payments will be made as Project milestones as set out in Section 3(a)(ii) are achieved up to the corresponding milestone fee. *(For example, Provider may invoice for the amount listed as the milestone fee corresponding to the first milestone task upon County's acknowledgement of the satisfactory completion of Task one. Upon the County's acknowledgement that the second Task has been satisfactorily completed Provider may invoice for that corresponding milestone fee.)* Milestone fees shall be the maximum amount payable for its corresponding milestone task which shall not be altered except by written amendment.
- b. Additional Services. County shall not be responsible for costs related to any services in addition to the Basic Services performed by Provider unless County requests such additional services in writing and such additional services are evidenced by a written amendment to this Agreement.

6. Responsibilities of the County

- a. Cooperation and Coordination. The County has designated (*Robert Williams*) to act as the County's representative with respect to the Project who shall have the authority to render decisions within guidelines established by the County Manager or the County Board of Commissioners and who shall be available during working hours as often as may be reasonably required to render decisions and to furnish information.

7. Insurance

- a. General Requirements. Provider shall obtain, at its sole expense, Commercial General Liability Insurance, Automobile Insurance, Workers' Compensation Insurance, and any additional insurance as may be required by County's Risk Manager as such insurance requirements are described in the Orange County Risk Transfer Policy and Orange County Minimum Insurance Coverage Requirements (each document is incorporated herein by reference and may be viewed at

http://www.orangecountync.gov/departments/purchasing_division/contracts.php.) If County's Risk Manager determines additional insurance coverage is required such additional insurance shall consist of _____ (if no additional insurance required mark N/A as being not applicable). Provider shall not commence work until such insurance is in effect and certification thereof has been received by the County's Risk Manager.

8. Indemnity

- a. Indemnity. To the extent authorized by North Carolina law the Provider agrees, without limitation, to defend, indemnify and hold harmless the County from all loss, liability, claims or expense, including attorney's fees, arising out of or related to the Project and arising from property damage or bodily injury including death to any person or persons caused in whole or in part by the negligence or misconduct of the Provider except to the extent same are caused by the negligence or willful misconduct of the County. It is the intent of this provision to require the Provider to indemnify the County to the fullest extent permitted under North Carolina law.

9. Amendments to the Agreement

- a. Changes in Basic Services. Changes in the Basic Services and entitlement to additional compensation or a change in duration of this Agreement shall be made by a written Amendment to this Agreement executed by the County and the Provider. The Provider shall proceed to perform the Services required by the Amendment only after receiving a fully executed Amendment from the County.

10. Termination

- a. Termination for Convenience of the County. This Agreement may be terminated without cause by the County and for its convenience upon seven (7) days prior written notice to the Provider.
- b. Other Termination. The Provider may terminate this Agreement based upon the County's material breach of this Agreement; provided, the County has not taken all reasonable actions to remedy the breach. The Provider shall give the County seven (7) days' prior written notice of its intent to terminate this Agreement for cause. Either party may terminate this Agreement upon notice to the other party that obligations pursuant to this Agreement are made impractical due to declarations of emergency by Orange County or by North Carolina due to events directly impacting Orange County. Both parties shall remain responsible for all payment and performance due up to the receipt of such notice, but shall have no further obligation or responsibility beyond that date provided the terminating party has taken all reasonable steps to complete the performance of its obligations.
- c. Compensation After Termination.
 - i) In the event of termination, the Provider shall be paid that portion of the fees and expenses that it has earned to the date of termination, less any costs or expenses incurred or anticipated to be incurred by the County due to errors or omissions of the Provider. Upon request of the County, the Provider shall submit to County all

relevant documentation, including but not limited to, job cost records, to support its claims for final compensation.

- ii) Should this Agreement be terminated, the Provider shall deliver to the County within seven (7) days, at no additional cost, all deliverables including any electronic data or files relating to the Project.
- d. Waiver. The payment of any sums by the County under this Agreement or the failure of the County to require compliance by the Provider with any provisions of this Agreement or the waiver by the County of any breach of this Agreement shall not constitute a waiver of any claim for damages by the County for any breach of this Agreement or a waiver of any other required compliance with this Agreement.
- e. Suspension. County may suspend the Basic Services and this Agreement at any time for County's convenience and without penalty to County upon three (3) days' notice to Provider. Upon any suspension by County, Provider shall discontinue the Basic Services and shall not resume the Basic Services until notified to proceed by County.
- e.1 Notwithstanding the provisions of Section "e." above, the County shall pay in full for all work deemed by the County to be satisfactorily partially completed at the time a Suspension is imposed, based upon the percentage of the work performed up until the Suspension date. The County and GBB shall mutually agree on the percentage of work completed for payment purposes.

11. Additional Provisions

- a. Limitation and Assignment. The County and the Provider each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the County nor the Provider shall assign or transfer its interest in this Agreement without the written consent of the other.
- b. Governing Law. This Agreement and the duties, responsibilities, obligations and rights of respective parties hereunder shall be governed by the laws of the State of North Carolina.
- c. Compliance with Laws. Provider shall at all times remain in compliance with all applicable local, state, and federal laws, rules, and regulations including but not limited to all state and federal anti-discrimination laws, policies, rules, and regulations and the Orange County Non-Discrimination Policy and Orange County Living Wage Policy (each policy is incorporated herein by reference and may be viewed at http://www.orangecountync.gov/departments/purchasing_division/contracts.php.) Any violation of this requirement is a breach of this Agreement and County may immediately terminate this Agreement without further obligation on the part of the County. This paragraph is not intended to limit and does not limit the definition of breach to discrimination. By executing this Agreement Provider affirms that Provider and any subcontractors of Provider are and shall remain in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes. By executing this Agreement Provider certifies that Provider has not been identified, and has not utilized the services of any agent or subcontractor identified, on the list created by the State Treasurer pursuant to

G.S. 147-86.58. By executing this Agreement Provider certifies that Provider has not been identified, and has not utilized the services of any agent or subcontractor identified, on the list created by the State Treasurer pursuant to G.S. 147-86.81.

- d. Dispute Resolution. Any and all suits or actions to enforce, interpret or seek damages with respect to any provision of, or the performance or non-performance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Orange County, North Carolina. It is agreed by the parties that no other court shall have jurisdiction or venue with respect to such suits or actions. Binding arbitration may not be initiated by either Party, however, the Parties may agree to nonbinding mediation of any dispute prior to the bringing of a suit or action.
- e. Entire Agreement. This Agreement, together with the RFP and its attachments and the Proposal and its attachments, represents the entire and integrated agreement between the County and the Provider and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties. Modifications may be evidenced by facsimile signatures.
- f. Severability. If any provision of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be valid and binding upon the Parties.
- g. Ownership of Work Product. Should Provider's performance of this Agreement generate documents, items or things that are specific to this Project such documents, items or things shall become the property of the County and may be used on any other project without additional compensation to the Provider. The use of the documents, items or things by the County or by any person or entity for any purpose other than the Project as set forth in this Agreement shall be at the full risk of the County.
- h. Non-Appropriation and Government Action. Provider acknowledges that County is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable or not appropriated for the performance of County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to County immediately upon written notice to Provider of the unavailability or non-appropriation of public funds. It is expressly agreed that County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement.

In the event of a change in the County's statutory authority, mandate or mandated functions, by state or federal legislative or regulatory action, which adversely affects County's authority to continue its obligations under this Agreement, then this Agreement shall automatically terminate without penalty to County upon written notice to Provider of such limitation or change in County's legal authority.

- i. Signatures. This Agreement together with any amendments or modifications may be executed electronically. All electronic signatures affixed hereto evidence the consent of

the Parties to utilize electronic signatures and the intent of the Parties to comply with Article 11A and Article 40 of North Carolina General Statute Chapter 66.

- j. Notices. Any notice required by this Agreement shall be in writing and delivered by certified or registered mail, return receipt requested to the following:

Orange County
 Attention: Robert Williams
 P.O. Box 8181
 Hillsborough, NC 27278

Provider's Name & Address
 GBB
 2010 CorporateRidge, St. 510
 McLean, VA 22102

IN WITNESS WHEREOF, the Parties, by and through their authorized agents, have hereunder set their hands and seal, all as of the day and year first above written.

ORANGE COUNTY:

PROVIDER:

By: _____
 County Manager

By: _____
 Steve Simmons, President
Printed Name and Title

Attachment 1

| Milestone Task | Milestone Date | Invoicing Date | Period Duration | Milestone Fee |
|---|----------------------------|----------------|-----------------|---------------|
| Task 1, Part 1 - Kickoff and Data Coll. | 1/31/2022 | 1/31/2022 | 4 weeks | \$ 23,921 |
| Task 1, Part 2 - Data & Information Assessment | 3/18/2022 | 3/31/2022 | 8 weeks | \$ 26,295 |
| Task 1, Development & Delivery of Written Report | 4/15/2022 | 4/29/2021 | 4 weeks | \$ 7,000 |
| Task 2, Develop Public Engagement Plan | 4/15/2022 | 4/30/2021 | 13 weeks | \$ 10,000 |
| Task 2, Develop Presentation & Present to SWAG | 6/17/2022 | 6/30/2022 | 8 weeks | \$ 5,000 |
| Intro. Mtg. to SWAG – develop thoughts/ideas | 1 st Wk Feb TBD | - | - | - |
| Task 2, Finalize Written Public Engagement Plan | 8/30/2022 | 8/30/2022 | 5 weeks | \$ 7,746 |
| Task 3, Part 1 Identify Needs/Potential Gaps | 9/23/2022 | 9/30/2022 | 6 weeks | \$ 13,131 |
| Task 3, Part 1 Develop and Deliver Summary of Options | 10/21/2022 | 10/31/2022 | 4 weeks | \$ 13,000 |
| Task 3, Part 2 Develop/Deliver Summary of Public Engagement | 1/20/2023 | 1/31/2023 | 12 weeks | \$ 61,264 |
| Task 4, Sys. Recommendations Pres. Draft | 2/17/2023 | 2/28/2023 | 4 weeks | \$ 31,000 |
| Task 4, Sys. Recommendations Pres. to County | 3/24/2023 | 3/31/2023 | 4 weeks | \$ 10,517 |
| Task 5, Presentation Integrated Systems Report | 4/30/2023 | 4/30/2023 | 4 weeks | \$ 26,338 |
| Task 6&7, Submit Draft & Final 'Road to Zero Waste' SWMP | 5/12/2023 | 5/31/2023 | 4 weeks | \$ 39,976 |
| Task 8, Develop & Present SWM Presentation | 6/15/2023 | 6/30/2023 | 4 weeks | \$ 19,350 |
| | | | TOTAL | \$ 294,538 |

ORD-2021-032

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No. 8-g**

SUBJECT: Fiscal Year 2021-22 Budget Amendment #5

DEPARTMENT: Finance and Administrative Services

ATTACHMENT(S):

Attachment 1. Year-to-Date Budget
Summary

INFORMATION CONTACT:

Gary Donaldson, (919) 245-2453

PURPOSE: To approve a budget amendment for Fiscal Year 2021-22.

BACKGROUND:

Health Department

1. The Orange County Health Department has received \$115,000 in federal pass through grant funds to support the COVID-19 pandemic response. The grant service period runs from June 1, 2021 to May 31, 2022. Funding will be used for a temporary full -time Public Health School Liaison for the coordination of COVID-19 screening, testing, and vaccine administration and other mitigation efforts. This budget amendment provides for the receipt of these funds and the creation of this temporary position, with end date of May 31, 2022.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

Northern Campus Energy Incentives

2. The Asset Management Services Department has received notice from Duke Energy that it will receive an energy incentive funds for the installation of solar panels at Northern Campus. Duke Energy has assessed the incentive for the Detention Center at \$118,000 and the Parks Ops Base at \$13,500. The County is expecting a similar incentive for the Bonnie B. Davis Center shortly. These incentive payments will be appropriated in the Northern Campus Capital Project to purchase any remaining furnishings and equipment required at the buildings.

Orange County Northern Campus (\$131,500) - Project # 10064

Revenues for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|------------------------------|-----------------------|-------------------------|-----------------------|
| Alternative Financing | \$40,085,906 | \$0 | \$40,085,906 |
| Transfer from General Fund | \$119,700 | \$0 | \$119,700 |
| Energy Incentive | \$0 | \$131,500 | \$131,500 |
| Total Project Funding | \$40,205,606 | \$131,500 | \$40,337,106 |

Appropriated for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|--------------------------------------|-----------------------|-------------------------|-----------------------|
| Northern Campus Project Expenditures | \$40,205,606 | \$131,500 | \$40,337,106 |
| Total Costs | \$40,205,606 | \$131,500 | \$40,337,106 |

ENVIRONMENTAL IMPACT: The following Orange County Environmental Impact Goals are applicable to this item:

- **GOAL: ENERGY EFFICIENCY AND WASTE REDUCTION**

Initiate policies and programs that: 1) conserve energy; 2) reduce resource consumption; 3) increase the use of recycled and renewable resources; and 4) minimize waste stream impacts on the environment.

Department of Social Services

3. The Department of Social Services has received a total allocation of \$237,500 to provide one time stimulus checks to youth that were previously in foster care. In Budget Amendment #2, the County anticipated \$65,904 of such funds. This amendment increases that amount by \$171,596 to the full award.
4. The department has received an allocation from the state to provide water payment assistance to low income households. The program will run from December 2021 to May 2022, and the County will receive \$208,194 for direct payments and administrative support for this program.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national

origin or ethnic background; age; military service; disability; and familial, residential or economic status.

Arts Commission

5. The Arts Commission moved into Suite 17 at the Eno Mill this fiscal year, requiring a \$54,489 increase in rent payments. This will be offset by rent received by the Arts Commission through 5 additional artist studios, as well as gallery sales, classes, and events held by the Orange County Arts Alliance. These funds will be budgeted in the Visitors Bureau Fund, outside of the General Fund.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

FINANCIAL IMPACT: Financial impacts are included in the background information above. This budget amendment provides for the receipt of funds in FY 2021-22, which will increase the General Fund by \$494,790, the Visitors Bureau Fund by \$54,489, and the County Capital Fund by \$131,500.

ENVIRONMENTAL IMPACT: There are no Orange County Environmental Responsibility Goal impacts associated with this item other than as noted above.

RECOMMENDATION(S): The Manager recommends the Board approve the budget amendment for Fiscal Year 2021-22.

Year-To-Date Budget Summary

Fiscal Year 2021-22

| Fund Budget Summary | General Fund | Visitors Bureau Fund | County Capital |
|--|----------------------|-------------------------|--------------------|
| Original Budget | \$240,762,361 | \$1,432,667 | \$0 |
| Additional Revenue Received Through Budget Amendment #5 (December 14, 2021) | | | |
| Grant Funds | \$2,494,707 | \$13,119 | \$1,072,716 |
| Non Grant Funds | \$590,781 | \$54,489 | \$131,500 |
| Fund Balance for Anticipated Appropriations (i.e. Encumbrances) | | | |
| Fund Balance Appropriated to Cover Anticipated and Unanticipated Expenditures | (\$551,786) | \$72,760 | |
| Total Amended Budget | \$243,296,063 | \$1,573,035 | \$1,204,216 |
| Dollar Change in 2021-22 Approved Budget | \$2,533,702 | \$140,368 | \$1,204,216 |
| % Change in 2021-22 Approved Budget | 1.05% | 9.80% | 0.00% |

Authorized Full Time Equivalent Positions

| | | | |
|--|----------------|--------------|--------------|
| Original Approved Full Time Equivalent Positions (includes Permanent and Time Limited) | 947.980 | 7.000 | 0.000 |
| Changes to Full Time Equivalent Positions | 3.625 | | |
| Total Approved Full-Time-Equivalent Positions for Fiscal Year 2021-22 | 951.605 | 7.000 | 0.000 |

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No. 8-h**

SUBJECT: Fiscal Year 2021-22 Budget Amendment #5-A

DEPARTMENT: Finance and Administrative Services

ATTACHMENT(S):

Attachment 1. Year-to-Date Budget
Summary

Attachment 2. December 9, 2021 Update
on FY 2020-21 Year End
Financial Results

INFORMATION CONTACT:

Gary Donaldson, (919) 245-2453
Brenda Bartholomew, (919) 245-
2552

PURPOSE: To approve Budget Amendment #5-A for Fiscal Year 2021-22.

BACKGROUND: The BOCC received a recommendation at the Board's December 6, 2021 Business meeting to allocate \$8 million in revenues over expenditures from FY 2020-21 and an additional \$4 million in fund balance amounts exceeding the County's 16% unassigned fund balance policy. This mid-year budget adjustment in the amount of \$12 million is recommended by the County Manager to be allocated as detailed below in order to benefit County residents, both school districts and County staff.

Employee Wage Adjustment

The County Manager requests a retroactive wage adjustment of three (3) percent for all permanent employees in active payroll status on December 17, 2021 for FY 2021-22 to be paid in two increments totaling \$1.8 million:

- Retroactive three (3) percent wage increase for all permanent employees in active payroll on December 17, 2021 for the period of July 1, 2021 through December 17, 2021; payable on December 22, 2021.
- Three (3) percent wage increase for all permanent employees in active payroll status on December 17, 2021 beginning with the payroll period effective December 18, 2021, which is payable on January 7, 2022.

As per the Orange County Code of Ordinances Section 28-55, the Manager shall be responsible for the administration and maintenance of the Salary Plan. The Manager shall recommend to the Board of Commissioners such increases, reductions, or amendments to the Salary Plan as is necessary to maintain fairness and adequacy of the Salary Plan. Based on the three (3) percent wage adjustment, it is recommended that the current Salary Schedule be updated to reflect the same percentage increase for all salary grades and ranges.

Schools Achievement Gap and Mental Health Funding

The County Manager requests \$1.5 million to be distributed to the Orange County K-12 school districts to support their needs for additional support to close the racial and ethnic opportunity gap

and address the mental health of students. The funding would be allocated, as required, by average daily membership. Based on the FY2021-22 allocations, Chapel Hill Carrboro City Schools would receive \$868,500, and Orange County Schools would receive \$631,500.

Federal Emergency Management Agency (FEMA) Backstop

A total of \$407,543 is requested to be set aside to offset non-congregate housing costs incurred for persons experiencing homelessness during the pandemic. This amount provides a cash flow need for pending reimbursable amounts from the NC Emergency Management.

American Rescue Plan Act (ARPA) Funding Replacement

A total of \$3.95 million is requested to replace previously allocated American Rescue Plan Act (ARPA) expenditures that have since been identified as either ineligible under recently released U.S. Treasury Guidance or imposing a highly administrative and reporting compliance burden on the County's non-profits partners.

Information Technologies (\$204,000) – Capital Project # 30007

Revenues for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|--|-----------------------|-------------------------|-----------------------|
| Alternative Financing | \$13,262,616 | \$0 | \$13,262,616 |
| Transfer from General Fund (in FY 2020-21) | \$1,595,257 | \$878,629 | \$2,473,886 |
| ARPA | \$674,629 | (\$674,629) | \$0 |
| Appropriated Fund Balance | \$200,000 | \$0 | \$200,000 |
| Total Project Funding | \$15,732,502 | \$204,000* | \$15,936,502 |

Appropriated for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|---------------------------------------|-----------------------|-------------------------|-----------------------|
| Information Technologies Expenditures | \$15,732,502 | \$204,000 | \$15,936,502 |
| Total Costs | \$15,732,502 | \$204,000* | \$15,936,502 |

*\$674,629 for this project was funded with ARPA through a transfer to the County Capital fund and \$204,000 was funded directly in the Emergency Recovery Fund. This action will consolidate all funding in the County Capital fund.

Crisis Diversion Facility Design

A total of \$250,000 is recommended to be transferred to the County capital fund to support the conceptual design for a Crisis Diversion Facility as recommended by the Behavioral Health Task Force. The facility would serve as a therapeutic alternative to the Orange County Detention Center or hospital Emergency Departments for residents experiencing a behavioral health crisis.

Crisis Diversion Facility (\$250,000) – Capital Project # 10080

Revenues for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|------------------------------|-----------------------|-------------------------|-----------------------|
| Transfer from General Fund | \$0 | \$250,000 | \$250,000 |
| Total Project Funding | \$0 | \$250,000 | \$250,000 |

Appropriated for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|--|-----------------------|-------------------------|-----------------------|
| Crisis Diversion Facility Expenditures | \$0 | \$250,000 | \$250,000 |
| Total Costs | \$0 | \$250,000 | \$250,000 |

Future Capital Pay-As-You-Go Funding

A total of \$4 million is requested to be transferred to the County capital fund to serve as a Pay-As-You-Go funding reserve for future capital projects or debt service payments on capital projects. This may assist in mitigating future tax increases.

Future Capital Needs (\$4,000,000) – Capital Project # 19900

Revenues for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|------------------------------|-----------------------|-------------------------|-----------------------|
| Transfer from General Fund | \$0 | \$4,000,000 | \$4,000,000 |
| Total Project Funding | \$0 | \$4,000,000 | \$4,000,000 |

Appropriated for this project:

| | Current FY 2021-22 | FY 2021-22 Amendment | FY 2021-22 Revised |
|--------------------|-----------------------|-------------------------|-----------------------|
| Unallocated | \$0 | \$4,000,000 | \$4,000,000 |
| Total Costs | \$0 | \$4,000,000 | \$4,000,000 |

Recurring Needs

| | |
|--|--------------------|
| Employee Wage Adjustment | \$1,883,875 |
| Schools Opportunity Gap and Mental Health Fund | \$1,500,000 |
| Total | \$3,383,875 |

Non-Recurring Needs

| | |
|---|--------------------|
| FEMA Backstop | \$407,543 |
| Sportsplex ARPA Funding Replacement | \$790,000 |
| Visitor's Bureau ARPA Funding Replacement | \$560,000 |
| Information Technologies ARPA Funding Replacement | \$878,629 |
| Outside Agencies ARPA Funding Replacement | \$1,729,953 |
| Crisis Diversion Facility Design | \$250,000 |
| Transfer to Capital PAYGO | \$4,000,000 |
| Total | \$8,616,125 |

| | |
|--------------------------|---------------------|
| Total Allocations | \$12,000,000 |
|--------------------------|---------------------|

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

FINANCIAL IMPACT: This budget amendment provides for the allocation of \$12,000,000 in General Fund reserves for the amounts as referenced in the Abstract narrative in actions occurring in both FY 2021-22 and FY 2020-21. In FY 2021-22, the General Fund is increased by \$5,113,828, the County Capital Fund is increased by \$4,454,000 (\$674,629 in ARPA funding was replaced with General Fund reserves for zero budget impact), and the Emergency Recovery Fund increased by \$407,543. In FY 2020-21 the Sportsplex Fund received a General Fund transfer amount of \$790,000 and the Visitors Bureau Fund received a General Fund transfer amount of \$560,000.

ENVIRONMENTAL IMPACT: There are no Orange County Environmental Responsibility Goal impacts associated with this item.

RECOMMENDATION(S): The Manager recommends the Board:

- Approve Budget Amendment #5-A for Fiscal Year 2021-22; and
- Authorize staff to incorporate the necessary updates to the County's Salary Schedule and otherwise to reflect the three (3) percent employee compensation actions described above.

Year-To-Date Budget Summary

Fiscal Year 2021-22

| Fund Budget Summary | General Fund | County Capital | Emergency Relief Fund |
|--|----------------------|--------------------|--------------------------|
| Original Budget | \$240,762,361 | \$0 | 0 |
| Additional Revenue Received Through Budget Amendment #5a (December 14, 2021) | | | |
| Grant Funds | \$2,494,707 | \$1,072,716 | |
| Non Grant Funds | \$590,781 | \$131,500 | |
| Fund Balance for Anticipated Appropriations (i.e. Encumbrances) | | | |
| Fund Balance Appropriated to Cover Anticipated and Unanticipated Expenditures | \$4,562,042 | \$4,454,000 | 407,543 |
| Total Amended Budget | \$248,409,891 | \$5,658,216 | \$407,543 |
| Dollar Change in 2021-22 Approved Budget | \$7,647,530 | \$5,658,216 | \$407,543 |
| % Change in 2021-22 Approved Budget | 3.18% | 0.00% | 0.00% |

Authorized Full Time Equivalent Positions

| | | | |
|--|----------------|--------------|--------------|
| Original Approved Full Time Equivalent Positions (includes Permanent and Time Limited) | 947.980 | 0.000 | 2.500 |
| Changes to Full Time Equivalent Positions | 3.625 | | |
| Total Approved Full-Time-Equivalent Positions for Fiscal Year 2021-22 | 951.605 | 0.000 | 0.000 |

Update on FY2020-21 Year End Financial Results

The County's auditors are finalizing the FY2020-21 Financial Audit. The results of this audit will show positive results in two areas. On an operating basis, the audit will show a surplus of approximately \$8.9 million before transfers. Of that amount, approximately \$8 million is available for a mid-year budget adjustment. In addition, the fund balance reconciliation contained in the audit will show \$4 million in available one time resources resulting from a decrease in the fund balance appropriation used to balance the FY2020-21 Budget compared to the smaller amount appropriated to balance the FY2021-22 Budget.

This memorandum will summarize the primary contributors to this positive financial outcome, outline a framework for the investment of those funds through a mid-year budget adjustment, and propose a timeline for the Board's consideration. A more detailed table of budgeted versus actual expenditures and revenues is attached.

FY2020-21 Budget Results

The FY2020-21 Budget was presented to the Board of Commissioners in May of 2020. At that time, the State was entering its sixth week of the Governor's Stay at Home order. Unemployment rates in the County were beginning to increase, and the County's otherwise resilient local economy was suffering. Under these circumstances, the County Manager's recommended budget included conservative revenue projections and austere expenditure measures designed to protect the County's financial well-being.

Fortunately, the federal government asserted a variety of economic stimulus initiatives to individuals, private businesses, and the public sector to avoid widespread economic distress. Those stimulus measures manifested in positive impacts to the County's primary revenue sources.

Property Tax and Motor Vehicle Collections

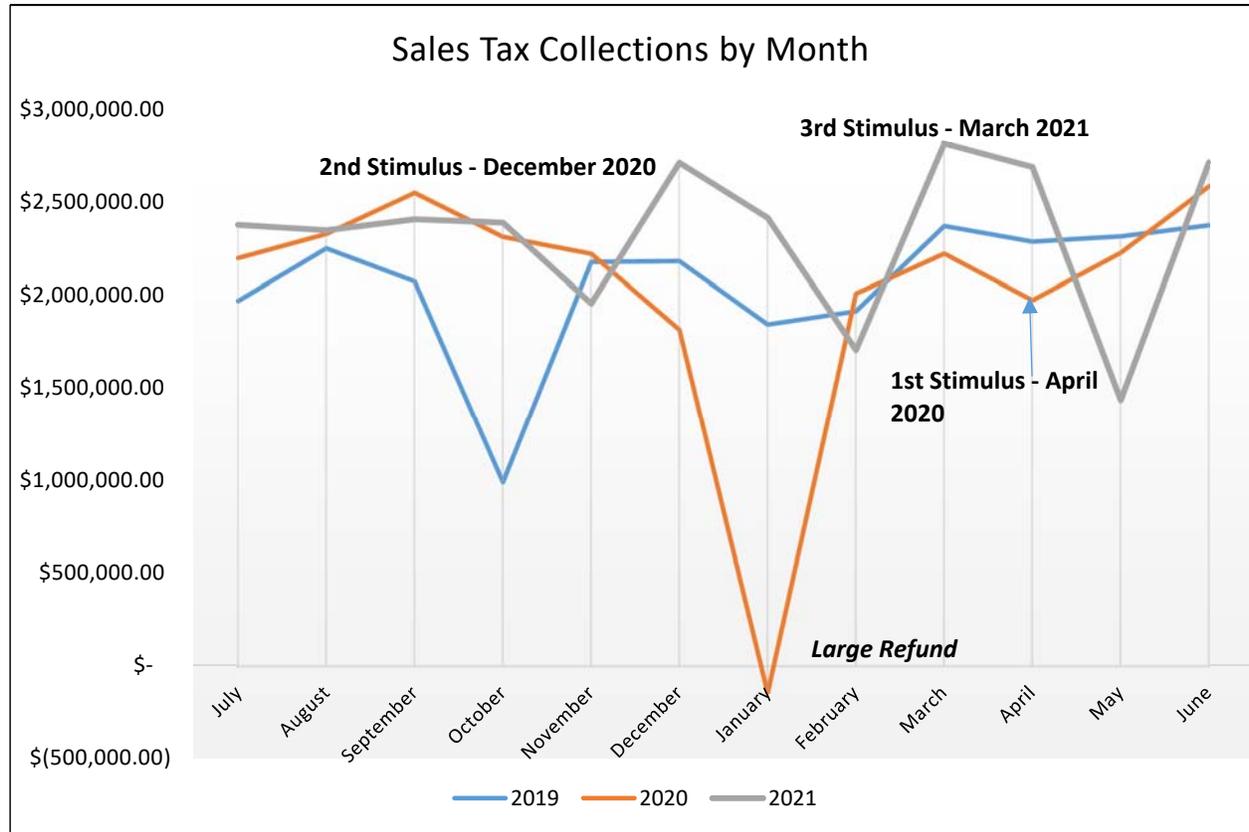
The collection rates for property taxes and motor vehicle collections were adjusted down in the FY2020-21 Budget in anticipation of residents struggling to pay those obligations. Property tax collection rates were decreased from 99.2% in FY2019-20 to 98.7% in FY2020-21. However, the actual collection rate did not decrease. Rather, it stayed consistent with the FY2019-20 rate at 99.27% resulting in a positive property tax revenue variance of over \$1.6 million.

The collection rate for Motor Vehicles also performed in excess of expectations. That rate was budgeted to decrease by 0.5%. However, the actual collection rate exceeded 100% at 103.8% as both current year and delinquent tax bills were paid. This positive variance amounted to over \$400,000 in surplus collections compared to the budgeted amount. Both of these positive variances are expected to be recurring, so the funds could be used to support ongoing operating expenses.

Sales Taxes

Sales taxes were budgeted to decrease by 4.5% from the FY2019-20 budgeted amount. Actual sales tax collections, however, exceeded FY2019-20 collections. This unexpected performance resulted in actual collections exceeding the FY2020-21 budgeted amount by over \$4 million. Although the Department of Revenue will not disclose the amount of sales tax collected from online sources, online purchases during and after the stay at home order likely fueled some of this growth, and direct federal stimulus payments to individuals and families helped to enhance retail sales. Those direct stimulus payments were distributed in April of 2020, December of 2020, and March of 2021.

Due to the three month lag in sales tax reporting from the Department of Revenue, the impact of the December 2020 stimulus was not known until April of 2021, and the impact from the March stimulus payments were not known until June 2021. The following chart illustrates how those stimulus payments amplified the seasonal variations in sales tax collections compared to FY2019 and FY2020.



Medicaid Hold Harmless

In April of 2020, the Office of the State Treasurer warned counties that, “Based on our expectations, we urge counties to be very conservative about budgeting how much revenue they budget for the MHH [Medicaid Hold Harmless] payments in their 2021 budgets.” Hold harmless payment are made from the state to counties because counties exchanged a portion of their local sales and use tax revenue for the state’s agreement to assume responsibility for certain non-administrative Medicaid costs several years ago.

The FY2020-21 Budget estimated the County would receive a Medicaid Hold Harmless payment of \$1.75 million. Since sales tax revenues Statewide did not suffer the expected losses, the County’s Medicaid Hold Harmless payment exceeded the budgeted amount by over \$2 million. The audit will reflect this payment in the sales tax category. Since this revenue is not in the County’s control and, therefore, not as predictable, it should be considered non-recurring revenue available for one time expenditure.

Unassigned Fund Balance

The FY2020-21 Budget implemented a number of expenditure austerity measures intended to maintain fiscal flexibility. The Budget included a hiring freeze, did not provide a wage adjustment for employees, suspended employee performance rewards, and suspended all conference, training, and travel expenses.

These intentional austerity measures, along with other restrained spending in departments, resulted in actual expenditures that were under the budgeted amounts. This means that the \$8.2 million fund balance appropriation used to balance the FY2020-21 budget was not required. Of that \$8.2 million appropriation, \$1.9 million was used to balance the FY2021-22 Budget, \$2.3 million was applied to achieve the sixteen percent unassigned fund balance target based on increased budgeted expenditures, and the remaining \$4 million is available for one time expenditure.

Framework for Investments

Based on the factors cited above, this proposed framework for investment includes a total of \$3.38 million in recurring expenses and \$8.61 million in non-recurring expenses.

- **Opportunity Gap Reduction and Student Mental Health Support Fund - \$1.5 million**

Both school districts highlighted two priorities in their expansion budget requests for FY2021-22, closing the racial and ethnic opportunity gap and addressing the mental health of students. In response to that request, this proposal creates an Opportunity Gap Reduction and Mental Health Support fund that would be exclusively dedicated to those priorities.

The resources contained in this fund would be allocated, as required, by average daily membership. Based average daily membership reported in October 2021, Chapel Hill Carrboro City Schools would receive \$868,500, and Orange County Schools would receive \$631,500. This fund would exist outside of the districts' current expense budgets to emphasize this investment as it relates to the Board's goal of promoting equity and social justice in the community. The fund is anticipated to be a recurring expense. As proposed, each District would propose a spending plan each year with key performance indicators which could not supplant current spending. The districts would have the flexibility to determine the amount of funds used to address each priority area.

- **Employee Wage Adjustment - \$1.9 million**

Orange County employees have not received an across the board wage adjustment for two years. Employees did receive a one-time pandemic relief payment of \$900 per employee, but this payment was not applied to base wages. Employees in surrounding jurisdictions received wage increases between two percent (2%) to five percent (5%) this fiscal year. The second proposed recurring investment is in Orange County employees with a 3.0% wage adjustment that will be retroactive to July 1, 2021.

- **Outside Agency Base Budget Funding - \$1.7 million**

The FY2021-22 Budget recommended funding the entire Outside Agency budget using American Rescue Plan Act (ARPA) funds. However, the new reporting requirements associated with the use of ARPA funds would require outside agencies of all sizes to track expenses and submit reports on a level that they have not been required to do before and many may not have the administrative capacity to complete.

If one of these sub-recipients were to fail to produce the required documentation, the County's overall compliance could be jeopardized. Therefore, this plan replaces ARPA funds with general fund

resources. The ARPA funds that were designated for this purpose will be available for other community needs.

- **Ineligible American Rescue Plan Act (ARPA) Expenditures - \$2.2 million**

As the interim spending rules on ARPA funds continue to evolve, some of the proposed expenditures contained in the first recommended County allocation are clearly eligible expenditures. For example, the FY2021-22 Budget applied ARPA funds to deficits in the Visitors Bureau and Sportsplex Funds. Given the federal eligibility framework that was in place at the time, covering revenue shortfalls appeared to be an eligible use of funds. However, as the guidance has evolved, the measurement that is being used to determine a revenue shortfall is on an organization wide basis, not an individual fund basis. As a result, \$1.35 million proposed to cover the deficits in the Visitors Bureau and Sportsplex funds are ineligible uses.

Likewise, prior federal guidance on information technology related expenditures cast a wide net of eligible uses. However, the ARPA guidance restricts the use of funds for technology to those related to the direct COVID-19 response or supporting residents negatively impacted by the pandemic, not to other organizational expenses related to transitioning to remote work. As a result, \$878,629 in information technology software and equipment that would have been eligible under prior federal COVID-19 programs is not eligible under the ARPA rules.

- **Federal Emergency Management Agency Reimbursement Backstop - \$407,543**

The County expended a total of approximately \$2,840,015 on non-congregate housing for individuals experiencing homelessness during the height of the pandemic. To date, the County has only received \$638,956 in reimbursements for that housing, despite the many assurances provided by the State that reimbursement was certain. As the County continues its reimbursement claim for the balance of funds, this proposal recommends setting aside \$407,543 in an Emergency Recovery Fund for the purposes of offsetting unrealized reimbursements. In the event that reimbursement is received, these funds would be available for repurposing.

- **Crisis Diversion Facility Design Funds - \$250,000**

The Behavioral Health Task Force has outlined the business case for a Crisis Diversion Facility that would offer a therapeutic alternative to either the Detention Center or the Emergency Room for residents experiencing a behavioral health crisis. The team has defined programming needs through a variety of stakeholder engagements and will be in a position to proceed with conceptual design in 2022. This proposal recommends allocating \$250,000 to support that conceptual design. Any funding remaining from the conceptual design phase could be applied to architectural work later in the project if it proceeds or could be repurposed for other capital needs if it does not proceed.

- **Transfer Funds to Capital Reserve - \$4 million**

Finally, this proposal recommends transferring the one-time unassigned fund balance surplus to a capital reserve fund for uses to be determined at a later date. For example, these funds could be used to substitute cash for future borrowing thereby reducing pressure on the County's debt service costs. If all \$4 million were applied to next year's Capital Budget in this way, it would eliminate the need for a projected tax increase until 2024. Alternatively, the Board could authorize additional, one-time capital spending for school or County capital needs without incurring additional debt service expense in the future.

- **Summary Table of Proposed Uses of Funds**

| Recurring | | |
|--|-----------|----------------------|
| Employee Wage Adjustment | \$ | (1,883,875) |
| Schools Opportunity Gap & Mental Health Fund | \$ | (1,500,000) |
| TOTAL Recurring | \$ | (3,383,875) |
| Non- Recurring | | |
| FEMA BackStop | \$ | (407,543) |
| Ineligible Federal Expenses - S-Plex, VB, IT | \$ | (2,228,629) |
| Outside Agencies | \$ | (1,729,953) |
| Crisis Diversion Facility Design | \$ | (250,000) |
| Transfer to Capital Reserve | \$ | (4,000,000) |
| TOTAL Non-Recurring | \$ | (8,616,125) |
| GRAND TOTAL | \$ | (12, 000,000) |

Next Steps and Timeline for Consideration

The financial audit must be submitted to the Local Government Commission by December 1, 2021. When that occurs, the audit officially becomes a public document.

County management is prepared to present these preliminary spending recommendations on December 6. Following the Board's deliberation on these recommendations, a final budget amendment reflecting the Board's action on December 6 would be prepared for the December 14 meeting. This amendment will include an action to change the salary schedule since the Board adopts this schedule as part of the budget ordinance. The change would reflect the amount approved by the Board.

ORD-2021-034

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No. 8-i**

SUBJECT: Fiscal Year 2021-22 Budget Amendment #5-B – ARPA

DEPARTMENT: Finance and Administrative Services

ATTACHMENT(S):

Attachment 1. Year-to-Date Budget
Summary
Attachment 2. CSLRF Project Ordinance

INFORMATION CONTACT:

Gary Donaldson, (919) 245-2453

PURPOSE: To approve Budget Amendment #5-B for Fiscal Year 2021-22.

BACKGROUND: Through the American Rescue Plan Act (ARPA), the federal government provided Orange County with a Coronavirus State and Local Fiscal Recovery Fund (CSLRF) allocation of \$28,839,722 in FY 2020-21. These funds were consolidated in a new Emergency Recovery Fund in an effort to collocate all incoming COVID-19 related funding that would support the entire County, such as Federal Emergency Management Administration (FEMA) public assistance funding for eligible projects. The Treasury Department has since clarified CSLRF funds should be isolated from not only the County general fund but any other funding.

This budget amendment requests to transfer the initial tranche of funding, \$14,419,861, in revenue and expenditure budget from the Emergency Recovery Fund to the newly created CSLRF Fund and appropriate the second tranche of funding, \$14,419,861, which will be received in FY 2021-22.

This amendment also requests approval of the attached Grants Project Ordinance, which details the projects recommended for funding through CSLRF, including those already approved by the BOCC in June 2021.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.
- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**
The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

FINANCIAL IMPACT: Financial impacts are included in the background information above. This budget amendment decreases the Emergency Recovery Fund by \$14,419,861 and increases the CSLRF Fund by \$28,839,722.

ENVIRONMENTAL IMPACT: There are no Orange County Environmental Responsibility Goal impacts associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve Budget Amendment #5-B, including the attached Grants Project Ordinance, for Fiscal Year 2021-22.

Year-To-Date Budget Summary

Fiscal Year 2021-22

| Fund Budget Summary | CSLRF Fund | Community Development Fund | Emergency Relief Fund |
|--|---------------------|----------------------------------|--------------------------|
| Original Budget | \$0 | \$948,056 | \$14,419,861 |
| Additional Revenue Received Through Budget Amendment #5b (December 14, 2021) | | | |
| Grant Funds | \$28,839,722 | \$1,783,076 | (\$14,419,861) |
| Non Grant Funds | | | |
| Fund Balance for Anticipated Appropriations (i.e. Encumbrances) | | | |
| Fund Balance Appropriated to Cover Anticipated and Unanticipated Expenditures | | | \$407,543 |
| Total Amended Budget | \$28,839,722 | \$2,731,132 | \$407,543 |
| Dollar Change in 2021-22 Approved Budget | \$28,839,722 | \$1,783,076 | (\$14,012,318) |
| % Change in 2021-22 Approved Budget | \$0 | \$0 | \$0 |

Authorized Full Time Equivalent Positions

| | | | |
|--|--------------|---------------|--------------|
| Original Approved Full Time Equivalent Positions (includes Permanent and Time Limited) | 0.000 | 11.500 | 2.500 |
| Changes to Full Time Equivalent Positions | 3.000 | -0.500 | -2.500 |
| Total Approved Full-Time-Equivalent Positions for Fiscal Year 2021-22 | 3.000 | 11.000 | 0.000 |

Attachment 2

**Grant Project Ordinance - Coronavirus State and Local Fiscal Recovery Funds
Orange County, North Carolina**

Be it ordained by the Board of Commissioners of Orange County that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section I. Budget Adoption

There is hereby adopted the following Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (CSLRF) grants project budget for Orange County by project according to the following summary:

| Fund | Total Appropriation |
|-------------|--------------------------------|
| CSLRF Fund | \$28,839,722 |

These funds may be used for the following categories of expenditures, to the extent authorized by state and local law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Section II. Appropriations

There is hereby appropriated the following project amounts. This Section II shall be amended as necessary to describe and authorize other projects to be funded by this Grant Project Ordinance.:

| Project | Appropriation |
|---|----------------------|
| Senior Lunch Program | \$119,229 |
| Replacement Temporary Facility Modifications | \$51,136 |
| Point Ionization – Detention Center | \$68,800 |
| ARPA Grant Compliance Position – CJRD | \$38,751 |
| Street Outreach, Harm Reduction and Deflection (SOHRAD) | \$160,000 |
| Restart the Arts Grants | \$100,000 |
| Arts Commission Aid to Impacted Industries | \$16,000 |
| Tourism and Hospitality Recovery | \$300,000 |
| Durham Tech Community College for Small Business Center | \$70,000 |
| First Responder Behavioral Health Program | \$45,000 |
| Powered Air Purifying Respirators (PAPRS) | \$124,000 |
| American Rescue Plan Act (ARPA) Coordinator | \$66,886 |
| Affordable Housing – Home Repairs | \$120,000 |
| Emergency Housing Assistance (EHA) and Coordinator | \$4,626,357 |
| Housing Helpline Coordinated Entry Specialist | \$32,202 |
| Housing Locator | \$28,810 |
| Landlord Incentive Program | \$55,000 |
| Eviction Diversion | \$167,046 |
| Government Alliance on Racial Equity Youth Program | \$46,540 |
| Language Access Services | \$15,000 |
| Broadband Infrastructure Design and Implementation | \$5,000,000 |
| Long Time Homeowner Assistance Program | \$250,000 |
| Long Time Homeowner Assistance Program Software | \$8,905 |
| Countywide Food Distribution and Storage | \$60,000 |
| Youth Enhancement Fund | \$25,000 |
| Stabilization Program for Former Foster Youth | \$10,000 |
| Support for Low Income Families | \$25,000 |
| Unassigned | \$17,210,060 |
| Total | \$28,839,722 |

Section III. Revenues

The following fund revenues are estimated to be available to complete the projects:

| | |
|-------------|--------------|
| CSLRF Funds | \$28,839,722 |
|-------------|--------------|

Section IV. The Finance Director is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements.

Section V. The Finance Director is hereby directed to report the financial status of the fund annually.

Section VI. Copies of this grant project ordinance shall be filed with the County Manager and the Finance Director.

Section VII: This grant project ordinance expires on December 31, 2026, or when all the CSLRF funds have been obligated and expended by the county, whichever occurs sooner.

Adopted this ___ day of _____, 20__

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 14, 2021

**Action Agenda
Item No. 8-j**

SUBJECT: Authorization to Approve an Interim Senior Lunch Caterer Contract

DEPARTMENT: Aging

ATTACHMENT(S):

INFORMATION CONTACT:
Janice Tyler, 919-245-4255

PURPOSE: To authorize the approval of an interim food service caterer contract to provide noon meals for the Home and Community Care Block Grant-funded Senior Lunch Program at the Seymour and Passmore Centers for the period January 18, 2021 through June 30, 2022.

BACKGROUND: The Orange County Department on Aging assumed administration of the Senior Lunch Program in July 2009. The purpose of this program is to provide a nutritious noon meal to persons 60 years and older. This contract is filling an emergency need, as the current caterer, Nantucket Grill, has given its 60 day notice to end its contract due to labor shortages.

With guidance from Triangle J Area Agency on Aging Director and the County's Finance and Administrative Services Department, Aging staff proposes to secure an interim caterer and conduct a formal request for proposals through Orange County Purchasing in March 2022. The contract for FY2022 would be awarded after that process. For this interim contract, the meal cost will not exceed the current rate of \$7.40 per meal. With this contract, the total cost of meals purchased will not exceed \$177,600. Note: There have been over 71,000 meals served curbside since the beginning of the pandemic in March 2020.

FINANCIAL IMPACT: The majority of the cost for the Senior Lunch Program is reimbursed by the NC Division of Aging and Adult Services. The balance of the funding is provided by Orange County and the Towns of Carrboro and Chapel Hill. These funds are included in the current operating budget. Donations are also collected from the participants.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

The purpose of this program is to provide a nutritious noon meal to persons 60 years and older, targeting those individuals who are in the greatest social and economic need.

ENVIRONMENTAL IMPACT: There is no Orange County Environmental Responsibility Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends that the Board authorize the County Manager to sign the interim food services catering contract following review and approval by the County Attorney.

BOCC Meeting Follow-up Actions

(Individuals with a * by their name are the lead facilitators for the group of individuals responsible for an item)

| Meeting Date | Task | Target Date | Person(s) Responsible | Status |
|---------------------|--|--------------------|--------------------------------|---|
| 12/6/21 | Review and consider request by Commissioner Price that staff pursue and the Board consider recognizing the Cedar Ridge High School Volleyball Team at the Board's December 14, 2021 Business meeting for winning the 2021 State Championship | 12/21 | Todd McGee | DONE Item included and team representatives to attend December 14, 2021 BOCC Business meeting |
| 12/6/21 | Provide the list of uses and funding and guidelines regarding ARPA funds as part of the follow-up funds allocation agenda item to be considered at the December 14, 2021 Business meeting | 12/2021 | Travis Myren Gary Donaldson | DONE Lists provided in December 14, 2021 Business meeting agenda package |
| 12/6/21 | Include the updated memo as part of the budget amendment package for the December 14, 2021 Business meeting | 12/2021 | Travis Myren Gary Donaldson | DONE Updated memo provided in December 14, 2021 Business meeting agenda package |

INFORMATION ITEM**MEMORANDUM**

To: Bonnie Hammersley, County Manager

From: David Stancil, DEAPR Director

Re: Meeting with OWASA Management and Staff on MST

Date: December 3, 2021

I am writing to provide a brief summary of our meeting on November 30 with OWASA Executive Director Todd Taylor and OWASA staff on the plans for the Mountains to Sea Trail (MST) in and near OWASA-owned lands at Cane Creek Reservoir.

At the meeting (Zoom), we provided an update to OWASA management and staff on activities to secure trail easements and trail routing from NC 54 to Buckhorn Road, around the north side of Cane Creek Reservoir. We shared with OWASA our recent trail easements, including the Board's approval of the Shy easement and the upcoming Johnson easement, and the opportunity this now presents to finalize, map and construct a segment of the MST from Bradshaw Quarry Road at Apple Mill Road to Buckhorn Road through OWASA land.

We discussed the next steps in our planning effort, including "ground-truthing" and locating with GPS technology the actual trail route in this area, emergency access and public safety plans, publicizing the segment planning to the surrounding neighbors, other needed approvals, and expectations that OWASA might have toward its own approval processes.

OWASA indicated that they would be ready to entertain this trail segment, which would need OWASA Board approval, including the following items:

- A map showing the actual location (high-accuracy GPS) of the trail onto and through the OWASA property that lies between the Shy easement to the west and the Johnson easement to the northeast.

- The public safety and emergency access plans, and any other information called for in the adopted OWASA conditions of 2016. This includes efforts to mitigate any water quality issues related to stream crossings, and
- A draft interlocal agreement between OWASA and Orange County about the trail construction and operation/maintenance, including the potential for trail closures in some areas during forest management activities. This will require legal review by both the County and OWASA.

The meeting was fruitful and positive, and both staffs are already making plans to do the trail ground-truthing and GPS trail location (along with our trail building colleague from the Friends of the MST organization) in the upcoming months, with a goal of moving toward the potential for plan and agreement approvals in the spring and summer of 2022, with construction targeted for the fall.

We look forward to working with our colleagues at OWASA and the Friends of MST as we make progress. Please let me know if I may provide any additional information.

Copies: Travis Myren, Deputy Manager
 Chris Hirni, Land Conservation Manager