

**ORANGE COUNTY PLANNING DEPARTMENT  
131 W. MARGARET LANE, SUITE 201  
HILLSBOROUGH, NORTH CAROLINA 27278**



**AGENDA  
ORANGE COUNTY PLANNING BOARD**

**NOTE CHANGE IN MEETING LOCATION!!**

**WEST CAMPUS OFFICE BUILDING  
PLANNING DEPARTMENT CONFERENCE ROOM  
131 W. MARGARET LANE, 2<sup>ND</sup> FLOOR  
HILLSBOROUGH, NORTH CAROLINA 27278**

**Wednesday, February 6, 2019**

**Regular Meeting – 7:00 pm**

<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
1.		<b>CALL TO ORDER</b>
2.	3 ! 4	<b>INFORMATIONAL ITEMS</b> a. Planning Calendar for February and March
3.	.....	<b>APPROVAL OF MINUTES</b> January 2, 2019 Training Notes January 2, 2019 Regular Meeting January 2, 2019 Ordinance Review Committee Notes
4.	.....	<b>CONSIDERATION OF ADDITIONS TO AGENDA</b>
5.	.....	<b>PUBLIC CHARGE</b> Introduction to the Public Charge

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

**Public Charge**

The Planning Board pledges 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 Board members. 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

<u>No.</u>	<u>Page(s)</u>	<u>Agenda Item</u>
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meeting until such time that a genuine commitment to this public charge is observed.

The Planning Board 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.

**6. CHAIR COMMENTS**

**7. ADJOURNMENT**

**IF AN EMERGENCY OCCURS, OR IF YOU ARE RUNNING LATE FOR THE MEETING, PLEASE LEAVE A VOICE MAIL FOR PERDITA HOLTZ (919-245-2578).**

February 2019						
<January						March>
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
Notes: * Planning Board Member Attendance Required or Encouraged  WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)						
3	4	5	6	7	8	9
		Regular BOCC Meeting 7:00 pm Whitted Building	Planning Board Meeting 7:00 pm* WCOB 204			
10	11	12	13	14	15	16
		BOCC Work Session 7:00 pm Southern Human Services		Joint BOCC/Town Of Hillsborough @7:00 pm Whitted Building		
17	18	19	20	21	22	23
		Regular BOCC Meeting 7:00 pm Southern Human Services	OUTBoard meeting @ 6:30 pm WCOB 204			
24	25	26	27	28		

<February		March 2019					April>
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	
					1	2	
Notes: * Planning Board Member Attendance Required or Encouraged  WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)							
3	4	5	6	7	8	9	
			Planning Board Meeting 7:00 pm* WCOB 204	Regular BOCC Meeting 7:00 pm Whitted Building			
10	11	12	13	14	15	16	
	Legislative Breakfast 8:30am @ Solid Waste	BOCC Work Session 7:00 pm Southern Human Services					
17	18	19	20	21	22	23	
		Regular BOCC Meeting 7:00 pm Southern Human Services	OUTBoard meeting @ 6:30 pm WCOB 204	Joint BOCC/Town Of Chapel Hill @7:00 pm Southern Human Services			
24	25	26	27	28	29	30	
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SUMMARY NOTES  
ORANGE COUNTY PLANNING BOARD  
JANUARY 2, 2019  
TRAINING SESSION

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NOTE: A quorum is not required for Planning Board Training Sessions.

**MEMBERS PRESENT:** Alexander Gregory (Vice-Chair), Chapel Hill Township Representative; Kim Piracci, At-Large; Adam Beeman, Cedar Grove Township Representative; Paul Guthrie, At-Large Chapel Hill Township; David Blankfard, Hillsborough Township Representative; Carrie Fletcher, Bingham Township Representative;

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

**AGENDA ITEM 1: PLANNING BOARD TRAINING SESSION** – Staff will lead training on the Special Use Permit (SUP) process for subdivisions.

**PRESENTER:** Michael Harvey, Current Planning Supervisory

Michael Harvey conducted a training session on the Special Use Permit (SUP) process for subdivisions.

MEETING MINUTES  
ORANGE COUNTY PLANNING BOARD  
JANUARY 2, 2019  
REGULAR MEETING

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**MEMBERS PRESENT:** Lydia Wegman (Chair), At-Large Chapel Hill Township Representative; Alexander Gregory (Vice-Chair), Chapel Hill Township Representative; Buddy Hartley, Little River Township Representative; Randy Marshall, Bingham Township Representative; Kim Piracci, At-Large; Adam Beeman, Cedar Grove Township Representative; Hunter Spitzer, At-Large; Paul Guthrie, At-Large Chapel Hill Township; David Blankfard, Hillsborough Township Representative; Carrie Fletcher, Bingham Township Representative; Patricia Roberts, Cheeks Township Representative;

**MEMBERS ABSENT:** Laura Nicholson, Eno Township Representative.

**STAFF PRESENT:** Craig Benedict, Planning & Inspections Director; Michael Harvey, Current Planning Supervisor; Tom Altieri, Comprehensive Planning Supervisor, Nish Trivedi, Transportation Planner; Tina Love, Administrative Assistant III

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

Chair Lydia Wegman called the meeting to order

**AGENDA ITEM 2: ELECTION OF CHAIR AND VICE-CHAIR FOR 2019**

**MOTION** by Kim Piracci to nominate Lydia Wegman as Chair. Seconded by Paul Guthrie

**VOTE:** Unanimous

Lydia Wegman asked if there were any nominations for Vice-Chair.

Alex Gregory replied he would stick his name in the hat.

Hunter Spritzer commented that he desired to be Vice-Chair.

Lydia Wegman asked Randy if he had an interest in Vice-Chair.

Randy Marshall replied I'm good.

Lydia Wegman stated okay and asked for any other nominations. She remarked that there had been nominations for both Alex and Hunter and asked all in favor of Alex Gregory.

**VOTE:** 8

Lydia Wegman commented okay and then asked all in favor of Hunter Spritzer.

**VOTE:** 3

Lydia Wegman acknowledged that Alex won and extended a congratulations.

*Alex Gregory elected as Vice-Chair.*

**AGENDA ITEM 3: INFORMATIONAL ITEMS**

- a. Planning Calendar for January and February 2019
  - Planning Board meeting scheduled for February 6, 2019.

56 **AGENDA ITEM 4: APPROVAL OF MINUTES**  
 57 November 7, 2018 Training Notes  
 58 November 7, 2018 Regular Meeting  
 59 November 7, 2018 Ordinance Review Committee Notes  
 60

61 **MOTION** by Randy Marshall to approve the November 7, 2018 Regular Meeting Minutes and the November 7, 2018  
 62 Ordinance Review Committee Notes. Seconded by Hunter Spitzer.

63 **VOTE:** Unanimous  
 64  
 65

66 **AGENDA ITEM 5: CONSIDERATION OF ADDITIONS TO AGENDA**  
 67  
 68

69 **AGENDA ITEM 6: PUBLIC CHARGE**

70 Chair Lydia Wegman waived the reading of the Public Charge.  
 71

72 **INTRODUCTION TO THE PUBLIC CHARGE**  
 73

74 The Board of County Commissioners, under the authority of North Carolina General Statute,  
 75 appoints the Orange County Planning Board (OCPB) to uphold the written land development law of  
 76 the County. The general purpose of OCPB is to guide and accomplish coordinated and  
 77 harmonious development. OCPB shall do so in a manner, which considers the present and future  
 78 needs of its citizens and businesses through efficient and responsive process that contributes to  
 79 and promotes the health, safety, and welfare of the overall County. The OCPB will make every  
 80 effort to uphold a vision of responsive governance and quality public services during our  
 81 deliberations, decisions, and recommendations.  
 82

83 **PUBLIC CHARGE**

84 The Planning Board pledges to the citizens of Orange County its respect. The Board asks its  
 85 citizens to conduct themselves in a respectful, courteous manner, both with the Board and with  
 86 fellow citizens. At any time, should any member of the Board or any citizen fail to observe this  
 87 public charge, the Chair will ask the offending member to leave the meeting until that individual  
 88 regains personal control. Should decorum fail to be restored, the Chair will recess the meeting  
 89 until such time that a genuine commitment to this public charge is observed.  
 90

91 **AGENDA ITEM 7: CHAIR COMMENTS**

92 There were none  
 93

94 **AGENDA ITEM 8: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS** -To make a recommendation to the  
 95 BOCC on proposed amendments to the UDO regarding stormwater regulations, in response to changes in State  
 96 laws.  
 97

98 **PRESENTER:** Michael Harvey, Current Planning Supervisor  
 99

100 *Michael Harvey presented the abstract beginning on page 13, the Unified Development Ordinance (UDO) Text*  
 101 *Amendments to address the Enforcement of Nutrient Standards within the Jordan Lake Watershed. Mr. Harvey*  
 102 *summarized that erosion sedimentation control is regulated on non-farm activities through two processes; one*  
 103 *through the enforcement of erosion control standards, and the other through enforcement of stormwater standards.*  
 104 *These regulations deal with both water quantity and water quality. These standards have been implemented in*  
 105 *accordance with applicable state law, which are enforced throughout the County. A couple years back the state*  
 106 *eliminated the ability of the local government to enforce nutrient standards in the Cape Fear River Basin otherwise*  
 107 *known as the Jordan Lake Watershed, so they could continue to study the most effective stormwater management*  
 108 *strategy to address nutrient issues in that particular river basin. Mr. Harvey stated that the standards had already*  
 109 *been adopted, and yet the state has eliminated our authority to adopt/implement/enforce those standards. This text*  
 110 *amendment is designed to do a couple of different things. It first brings our ordinance into compliance with state law,*

111 *and second, updates outdated terminology. There have been changes in the names of state departments that*  
112 *regulate this and there has been a change in nomenclature referring to stormwater features. These were formerly*  
113 *known as Best Management Practices or (BMPs). They are now referred to as Stormwater Control Measures or*  
114 *(SCMs). In the (UDO), all (BMPs) have been changed to (SCMs). Mr. Harvey advised that the text amendment has*  
115 *been reviewed by the County Attorney's Office and by the Development Advisory Committee with no issues and the*  
116 *staff's recommendation is to approve the Statement of Consistency as attached in Attachment (1) and to approve the*  
117 *actual amendment itself as contained in Attachment (2).*

118  
119 Mr. Harvey welcomed any questions.

120  
121 Paul Guthrie questioned who had the ultimate final jurisdiction on Lake Jordan.

122  
123 Michael Harvey replied that the state and the Army Corp of Engineers.

124  
125 Paul Guthrie asked whether or not it was still a possession of the Army Corp of Engineers.

126  
127 Michael Harvey responded that it is a water body of the U.S. meaning the Army Corp has jurisdiction, but the state is  
128 addressing nutrient issues through the adoption of stormwater rules. This process means the state is working with  
129 multiple entities.

130  
131 Paul Guthrie commented as long as the Clean Water Act keeps that definition.

132  
133 Michael Harvey confirmed to his knowledge the answer is yes.

134  
135 Alex Gregory questioned whether the standards were being released as a best practice as they are currently being  
136 studied and decided.

137  
138 Michael Harvey stated, the state was re-evaluating the standards and attempting to develop new best practices with  
139 respect to nutrient reduction. Mr. Harvey said he believed there is supposed to be an update to the General  
140 Assembly in 2020. He added there is no estimated completion on the study or its submittable rules, and what we  
141 know right now is that there are standards in the UDO that are unenforceable and need to be removed.

142  
143 Kim Piracci mentioned that she had read something that said these rules are supposed to be passed, but aren't  
144 passed and asked whether this is a regulation that is going to be passed or is passed.

145  
146 Michael Harvey clarified that the General Assembly has eliminated local government's authority to enforce the  
147 nutrient standards relating to water quality issues into a river basin. He reiterated that these are unenforceable  
148 standards that will need to be removed from the UDO as the enforcement of same cause litigation concerns.

149  
150 Lydia Wegman questioned whether the rules still apply in the Neuse River Basin.

151  
152 Michael Harvey confirmed that enforcement of nutrient reduction standards within the Neuse has not been altered by  
153 the state. He reminded the board that there are still stormwater regulations in the Cape Fear River Basin, just not  
154 water-quality standards, but reasserted that there are water-quantity standards local development is still required to  
155 abide by. He stated, for a lot of you that does not address the nutrient concerns you have, but hopefully, it is  
156 resolved in the next year or two. Once the state adopts a final nutrient reduction strategy, the county will be able to  
157 amend the UDP incorporating these new standards and enforce them.

158  
159 Alex Gregory expressed that it seemed as though the current regulation was more about keeping water from flowing.  
160 Water level like previously mentioned versus silt runoff, or something from disturbing the land.

161  
162 Michael Harvey confirmed.

163  
164 Alex Gregory commented that we would usually require a regulation on that, but now it's just don't block the water.

165



166 Michael Harvey explained that erosion control standards are not being impacted by this ordinance amendment.  
167 What is being impacted is the quality of the water leaving the site.

168  
169 Lydia Wegman asserted the total amount of water leaving the site is still regulated.

170  
171 Michael Harvey agreed.

172  
173 Lydia Wegman responded with but not the quality of that water.

174  
175 Michael Harvey confirmed.

176  
177 Carrie Fletcher sought clarification on whether the quality issue would be addressed within one to two years.

178  
179 Michael Harvey advised that that's the hope but it was up to state officials to complete work on this before local  
180 governments could take action to implement and enforce new nutrient reduction standards.

181  
182 Carrie Fletcher responded with is there any teeth to get it sooner.

183  
184 Michael Harvey replied, no. We are at the whim of the General Assembly and the entities that are studying the issue  
185 and trying to come up with a solution to address the concerns which forced the descending of the Jordan Lake rules.

186  
187 Carrie Fletcher commented so, it could be nudged with popularity from citizens.

188  
189 Michael Harvey acknowledged that it could be nudged, but stated you are also relying on several different entities  
190 studying the matter to respond to nudging.

191  
192 Paul Guthrie mentioned that the water quality issue, what is in the water, is on the public mind. In the long term, the  
193 erosion and fill-in is the biggest threat because over time that will reduce the capacity of Jordan Lake. Mr. Guthrie  
194 reminded the Board the lake was originally developed and intended to serve as a flood control project. He  
195 questioned if anybody had looked at that context at both of those at the same time.

196  
197 Michael Harvey responded that he did not have an answer. He said the county still enforces erosion control  
198 standards and reminded the Board this amendment did not impact that program.

199  
200 Paul Guthrie questioned whether the Army Corp of Engineers under federal law have the ability to look into it.

201  
202 Michael Harvey informed that ultimately, they do, but whether or not it is their priority is a different question.

203  
204 Kim Piracci sought clarification and asked Mr. Harvey to reiterate the downside of not amending the ordinance.

205  
206 Michael Harvey explained that we are unable to enforce nutrient reduction standards within the Cape Fear river  
207 basin. If we attempted to enforce these standards we subject ourselves to possible litigation, which staff and the  
208 Attorney's office believe we would lose. He suggested it is cleaner to remove something that has no legal basis in  
209 the law to have in the ordinance anymore rather than to potentially subject yourself to possible legal action for  
210 attempting to, or not attempting to, enforce your ordinance. He reminded the board that property owners cannot  
211 currently be held to this standard. He explained that there have been attempts to remove these provisions when  
212 state law was modified approximately a year-and-a-half ago. Unfortunately the current Engineering and Erosion  
213 Control supervisor was unable to complete the assignment as mandated by the Director. He said Mr. Benedict  
214 assigned him the task to complete the project approximately six months ago and it is now coming to a conclusion.

215  
216 Hunter Spitzer stated there is a reason why we can't recommend a developer voluntarily adhere or adopt the  
217 standard, is that correct.

218

219 Michael Harvey replied, no. If a developer wants to do it, that is their personal decision. We cannot hold them to it.  
220 The county cannot mandate they abide by it. There is no longer any legal basis allowing for the enforcement of  
221 nutrient reduction standards in the basin. He reiterated the standards need to come out of the UDO.

222  
223 Lydia Wegman questioned whether that could be something that the public and neighbors might ask of the  
224 developer, and the developer could look into it on their own.

225  
226 Kim Piracci asked if farming practices was the bigger problem with this particular issue.

227  
228 Michael Harvey replied I think the totality of development activity, meaning the disturbance of land, is responsible for  
229 these issues. He reminded the Board farming is not regulated by these standards as such operations are exempt  
230 from zoning.

231  
232 Lydia Wegman asked for any other questions or comments.

233  
234 Hunter Spritzer remarked that it seemed like this is the county's only recourse.

235  
236 Michael Harvey commented regrettably, but it is necessary.

237  
238 **MOTION** by Hunter Spritzer to recommend the Statement of Consistency and approve the UDO Text Amendments.  
239 Seconded by Alex Gregory.

240 **VOTE:** Passed 9-2 (Guthrie, Piracci opposed)

241  
242 Kim Piracci remarked if this isn't my drinking water than it is other people's drinking water. It is getting polluted, and I  
243 am on the on the planning board and feel we need to take a stand and address the issue head on.

244  
245 Paul Guthrie explained that this encourages something that has been going on at Lake Jordan since the day it was  
246 first considered, it's a big federal project or it's a big state action and we can't act right now on this particular problem,  
247 you can't get anywhere with that over the long haul. He asserted that what this is doing aside from water quality is  
248 reducing the ability of the lake to protect the downstream and quantity of water that goes in heavy rainfall. He stated  
249 that he thinks it goes beyond Orange County and therefore votes, no.

250  
251 Lydia Wegman commented that she wanted clarification that there were still water quantity regulations.

252  
253 Michael Harvey replied, yes. We enforce water quantity standards through erosion control and through stormwater  
254 permitting, but we can't require compliance with water quality standards which are the removal of nitrogen and  
255 phosphorus.

256  
257 Craig Benedict explained that since all of the comments were out, he wanted to give a post log to the discussion. He  
258 reported that in North Carolina many of the regulations are setting limits about what can be enforced. In the past ,  
259 there was no problem in exceeding what was being asked to be more restrictive or cleaner. He explained that we are  
260 in a modified Dillion Rule State, and we only have the authority to enforce things that the state gives the authority to  
261 enforce, so we are not independent. Until we get back to mode with some of the creativity and progressiveness we  
262 have tried to do in the past, we are having to roll back some of our regulations that we had intact for 20 plus years.

263  
264 Lydia Wegman contributed that she felt the same indignation that Kim had expressed but understood the legalities of  
265 why this route was being taken. She explained that she voted in favor because she thinks it is the best process to  
266 keep us out of litigation.

267  
268 Craig Benedict agreed and recommended that the amendment be passed.

269  
270 Lydia Wegman questioned whether as citizens they could voice their indignation to the other leaders in an effort to  
271 make the North Carolina policy different and exclude Orange County from this position.

272  
273 Hunter Spitzer asked if they could defer recommendation on the amendment until 2020.

274  
 275 Craig Benedict responded that this had already been on the books for too long and that is why they are proceeding to  
 276 remove it from the UDO.  
 277  
 278 Kim Piracci asked how long we had been a Dillion State.  
 279  
 280 Craig Benedict replied since Day 1. We only have the authority to regulate as the legislator gives us the power.  
 281  
 282 Kim Piracci questioned whether Dillion's Law just not being implemented or whether it is something that was recently  
 283 invented.  
 284  
 285 Craig Benedict explained that in the past the policy had been set with minimum standards and that it had been  
 286 acceptable to perform beyond those standards.  
 287  
 288 Kim Piracci asked even though we were a Dillion State.  
 289  
 290 Craig Benedict replied, yes. He informed that there are now maximum standards and that it is not acceptable to  
 291 perform below or above the standard threshold.  
 292  
 293 Kim Piracci questioned whether the Dillion's Law was in the constitution.  
 294  
 295 Craig Benedict explained that the Dillion Rule originated from a previous legislator.  
 296  
 297 Lydia Wegman remarked that she did not believe it was in the constitution.  
 298  
 299 Craig Benedict said that it was just the way the process had been set to establish powers. He advised the board that  
 300 they would receive a handout to view the information.  
 301  
 302 Lydia Wegman informed that the Planning Board, in light of the situation that the county finds it in, it has been  
 303 approved, but there are still concerns. She stated that the Planning Board continues to support nutrient controls and  
 304 hopes that there can be acceleration on the part of the state in developing nutrient requirements, so the county can  
 305 propose them.  
 306  
 307  
 308 **AGENDA ITEM 9: EFLAND-BUCKHORN-MEBANE ACCESS MANAGEMENT PLAN** -To receive an update on updates to the  
 309 Efland-Buckhorn-Mebane Access Management Plan.  
 310  
 311 **PRESENTER:** Nish Trivedi, Transportation Planner  
 312  
 313 *Nish Trivedi mentioned to the board that the Public Hearing scheduled on November 1<sup>st</sup> of last year had been*  
 314 *continued and rescheduled to February 5<sup>th</sup>. He mentioned that the updates would also be presented to the*  
 315 *OUTBoard on the 16<sup>th</sup> of January and to Economic Development on the 8<sup>th</sup> of January. He stated that the Planning*  
 316 *Board provided recommendations to approve the plan with two conditions. The first condition was to provide the plan*  
 317 *with more clarity on what the plan is and is not. The second condition was how the plan would meet specific goals*  
 318 *and objectives in the plan. Additional content has been added to the plan which addresses the two conditions. The*  
 319 *plan will be released no later than January 31.*  
 320  
 321 Lydia Wegman questioned when the plan would be posted to the web.  
 322  
 323 Nish Trivedi responded no later than January 31 before the public hearing.  
 324  
 325 Alex Gregory asked if he thought that would give the public a better idea of what the plan is and is not.  
 326  
 327 Nish Trivedi confirmed that he did.  
 328

329 Lydia Wegman questioned and that is then the planning board will be able to see it as well on the 31<sup>st</sup>.

330

331 Nish Trivedi stated, yes.

332

333 Lydia Wegman asked if there was a Board of Commissioners meeting on the 16<sup>th</sup>.

334

335 Nish Trivedi informed her that there is an OUTBoard meeting on the 16<sup>th</sup>.

336

337 *Nish Trivedi continued his updates.*

338

339 Lydia Wegman asked whether the board would have a chance to see the comments from the Economic  
340 Development meeting.

341

342 Nish Trivedi advised that the comments would be provided.

343

344 *Nish Trivedi continued his updates and stated that a lot of content on the public involvement process had been added*  
345 *to the planning update. Nish reminded the board that the document would be released and online January 31<sup>st</sup> with*  
346 *track changes showing where additional content had been added since the last time it was reviewed. He stated that*  
347 *the Public Hearing would take place February 5<sup>th</sup> at the Whitted Building at 7:00 p.m.*

348

349 Craig Benedict added that in addition to the importance of an Access Management Plan there are also four additional  
350 criteria involved with new development that assist with the economic development potential of properties and the  
351 development restrictions.

352

353 Lydia Wegman stated that there had been a lot of confusion on the part of the public of why it was being performed  
354 and the overall Access Management Plan. She asked if Craig thought the concerns of the public had been  
355 addressed in the plan's updates and if he thought the members of the public with concerns had a clearer  
356 understanding.

357

358 Craig Benedict replied, yes. He explained that the Access Management Plan makes sense and that the plan would  
359 not directly affect the person possibly farming the land but would affect the neighbor who buys the land from them for  
360 future development. He mentioned meeting with people individually to explain development on a case-by-case basis  
361 and mentioned that information could be found on the website should people have any concerns.

362

363 Lydia Wegman replied with a thank you and asked for further questions.

364

365 **AGENDA ITEM 10: ADJOURNMENT**

366 The meeting was adjourned by consensus.

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Lydia N. Wegman, Chair

SUMMARY NOTES  
ORANGE COUNTY PLANNING BOARD  
JANUARY 2, 2019  
ORDINANCE REVIEW COMMITTEE

**NOTE: A QUORUM IS NOT REQUIRED FOR ORDINANCE REVIEW COMMITTEE MEETINGS.**

**MEMBERS PRESENT:** Lydia Wegman (Chair), At-Large Chapel Hill Township Representative; Alexander Gregory (Vice-Chair), Chapel Hill Township Representative; Randy Marshall, Bingham Township Representative; Hunter Spitzer, At-Large; Kim Piracci, At-Large; Adam Beeman, Cedar Grove Township Representative; Paul Guthrie, At-Large Chapel Hill Township; David Blankfard, Hillsborough Township Representative; Carrie Fletcher, Bingham Township Representative;

**STAFF PRESENT:** Craig Benedict, Planning & Inspections Director; Michael Harvey, Current Planning Supervisor; Tina Love, Administrative Assistant III

**AGENDA ITEM 1:** Call to Order and Roll Call  
Planning Board Chair Lydia Wegman called the meeting to order.

**AGENDA ITEM 2: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS -SIGNS-** To review and discuss proposed amendments to the UDO regarding signs

**PRESENTER:** Michael Harvey, Current Planning Supervisor

*Michael Harvey reviewed the proposed amendments to the UDO and provided background information. Mr. Harvey reviewed pages 4-6 of the abstract packet and guided the board through various changes to the language of the drafted ordinance.*

Kim Piracci asked about the wording of 6.12.3 (1) and asked if the wording meant five-foot setback for signs off a road.

Michael Harvey responded, no, the sign setback was five feet of the edge of the right of way.

Kim Piracci asked for clarification.

Michael Harvey explained that with roadways you have a right of way in which a roadway is located. He clarified that Ordinance in Section 6.12.3 (1) requires signs to be a minimum of five feet from the edge of that right of way. It does not matter where the road is, the setback is measured from the edge of the right of way.

Alex Gregory commented so the right of way is larger than the road.

Michael Harvey agreed.

Craig Benedict stated that the road might only be 24 foot of pavement.

Michael Harvey agreed, but stated that if you have a 100-foot right of way, your sign has to be 5 feet from the edge of that right of way. He reminded the board that with public roads that is where your property line technically starts, at the edge of that right of way.

Kim Piracci questioned the legality of signs placed within five feet of a busy corner near her home.

Michael Harvey responded that she was correct in her thinking that the signs are illegally placed, but informed her that he had no legal authority to enforce regulatory standards in public rights of way. He advised that DOT had to remove those signs. The only exception under state law would be political signs.

55  
56 Kim Piracci mentioned that she was still seeing those as well.  
57  
58 Michael Harvey stated that the county was unable to base a decision to remove a sign based on the content. He  
59 suggested that if he were to do that even with the currently ordinance language, litigation could arise and that they  
60 would likely suffer a loss.  
61  
62 Kim Piracci mentioned that they were not under the law because of the content but their location.  
63  
64 Michael Harvey replied because they were located within the right of way he had no authority under the ordinance to  
65 compel their removal.  
66  
67 Paul Guthrie asked what about non-public roads.  
68  
69 Michael Harvey acknowledged that that was actually covered by a different provision of the ordinance. He advised  
70 that it has to be set back out of all rights of way.  
71  
72 Lydia Wegman questioned the timeline given in the section regarding flags 6.12.3 (G) (1).  
73  
74 Michael Harvey replied that the deadline would be May of this year.  
75  
76 Lydia Wegman asked if that would be made clear.  
77  
78 Michael Harvey assured that the clock would not be reset.  
79  
80 Lydia Wegman responded thank you, I just wanted to be sure.  
81  
82 David Blankfard questioned how many days house sales signs could be placed.  
83  
84 Michael Harvey stated that had not been determined yet. He replied that it was covered in page 8 of the draft text.  
85 He stated that 30 days after the house is sold, it must be removed. Mr. Harvey reminded the board this was still a  
86 work in process but he felt it important to ensure members were exposed to the proposed reorganization and  
87 changes in standards to address content neutral sign regulations.  
88  
89 Lydia Wegman asked Mr. Harvey to clarify that subsection 4 was for garage sales.  
90  
91 Michael Harvey confirmed that the section addressed garage sales, yard sales, and anytime the home is open to the  
92 public.  
93  
94 Lydia Wegman sought clarification on David's questions. She questioned whether temporary signs were defined  
95 somewhere.  
96  
97 Michael Harvey asserted that they will be.  
98  
99 Lydia Wegman responded but not yet.  
100  
101 David Blankfard asked if a permit was required to place a temporary sign.  
102  
103 Michael Harvey replied, no, he stated that he was not interested in permitting these as they are already authorized by  
104 the ordinance.  
105  
106 Lydia Wegman asked whether there would be a definition of what temporary consisted of.  
107  
108 Michael Harvey responded, yes.

109  
110 Randy Marshall asked how to get the jurisdiction to tell someone that they can only put a sale sign for the house if  
111 they get a real estate agent.  
112  
113 Michael Harvey responded with I don't and referred board members to review language in subsection (B).  
114  
115 Randy Marshall replied but he still has to do the same timeline.  
116  
117 Michael Harvey stated that the property has to be listed for sale and then 30 days after the sale has been contracted,  
118 the sign has to be removed. It is laid out that way to provide some distinction about who has the authority to say a  
119 property is or is not for sale instead of just saying real estate signs.  
120  
121 Lydia Wegman questioned (D) (5) on page 8 regarding temporary signs during holiday periods. Her question was  
122 whether that related to holiday lights.  
123  
124 Michael Harvey answered that it could be displays of Happy Holidays, Merry Christmas, or when lights are  
125 associated.  
126  
127 Lydia Wegman replied but only five signs.  
128  
129 Michael Harvey confirmed yes, and stated that that may change.  
130  
131 Randy Marshall questioned if there had been any comment concerning the impact of this on houses of worship.  
132  
133 Michael Harvey responded, no, because they are all going to be held to standards contained in this ordinance.  
134  
135 *Michael Harvey continued his presentation and resumed on prohibited signs, page 9.*  
136  
137 David Blankfard questioned whether Mr. Harvey was defining a sign as a placard that has words on it.  
138  
139 Michael Harvey remarked that they have a current definitions that may have to be modified in order to ensure a  
140 content neutral sign ordinance.  
141  
142 David Blankfard stated that they could use emojis now.  
143  
144 Michael Harvey agreed and replied that any graphic display could convey a message, but they are unable to regulate  
145 what the message is. He stated that we are able to prohibit lude, lascivious, or offensive language, but where that  
146 particular fine line was drawn will be a topic hotly debated.  
147  
148 Randy Marshall asked where do "no hunting" and "fishing signs" play in this.  
149  
150 Michael Harvey replied temporary signs.  
151  
152 Randy Marshall commented that some put their signs up for years because they don't want their land --  
153  
154 Michael Harvey remarked that they could do that because there was not time limit for some of the temporary signs.  
155  
156 Randy Marshall asked so if somebody circled their property with "no hunting" signs every 25 feet, that is allowable.  
157  
158 Michael Harvey stated that there are actually state regulatory standards to establish how you are supposed to identify  
159 no trespassing on your property and that there's a provision in the proposed revised sign ordinance that says you can  
160 erect signage consistent with state law.  
161

162 Carrie Fletcher asked about signage on vehicles and trailers. She questioned if there were any compliance issues  
163 with it and if there was jurisdiction.  
164

165 Michael Harvey questioned whether she meant a big motorized sign in the right of way being driven.  
166

167 Carrie Fletcher replied with, yes. She mentioned seeing cars pulling trailers with big signs.  
168

169 Michael Harvey said, no and then commented that he did not think that they had any authority over those because of  
170 their mobility.  
171

172 Carrie Fletcher asked and if it's parked at a property.  
173

174 Michael Harvey stated that technically we would have to make an argument that it is by default a sign, but the next  
175 question is when a restaurant has catering van with a advertising material, is it a sign or a vehicle.  
176

177 Carrie Fletcher responded, exactly.  
178

179 *Michael Harvey continued his presentation of the abstract by referring to page 10 and continued his explanation on*  
180 *prohibited signs. Mr. Harvey discussed the language regarding permit requirements and submittal requirements and*  
181 *the reasons for their recommendations. He explained that the subjects of expiration of permits, permit revocation,*  
182 *and maintenance had not been discussed as they are not believed to contain any content-based issues. Mr. Harvey*  
183 *then touched on signs regulations by district. He then stated that page 12 identified the cadence of how regulations*  
184 *would be established and listed it as; size, height, number, location, illumination.*  
185

186 Lydia Wegman questioned the location of what page Mr. Harvey was referring to.  
187

188 Michael Harvey responded pages 11 and 12.  
189

190 *Michael Harvey continued his presentation of the abstract and referred the board to the bottom of page 11.*  
191

192 Lydia Wegman questioned the meaning of "face" in signs 16 sq. ft. in area per face.  
193

194 Michael Harvey replied sign face, specifically the area of the sign containing an advertising message.  
195

196 Lydia Wegman had a question regarding left out wording after setbacks located on page 12 (d).  
197

198 Michael Harvey responded that it was because he did not have anything proposed yet.  
199

200 *Michael Harvey continued his presentation on the abstract and referred the board to pages 14-16.*  
201

202 Michael Harvey asked whether there were any concerns regarding the cadence or the manner in which the sign code  
203 would be revised.  
204

205 Paul Guthrie questioned how it would be policed.  
206

207 Michael Harvey replied that proceedings will be initiated as violations are found in accordance with provision 6.12  
208 and Article 9 located in the enforcement provision of the (UDO).  
209

210 Paul Guthrie commented that he asked because in some situations the owner may refuse it and then remarked that  
211 removal would probably take a warrant.  
212

213 Michael Harvey stated that if there is an illegal sign on your property, you are issued a notice of violation and then  
214 have a certain time to bring it to compliance. If you refuse to do so, or appeal the decision, fines begin at about \$500



215 a day. If the first civil penalty is not paid in 10 days, the County Attorney's Office can take you to court and compel  
216 compliance.

217  
218 Paul Guthrie commented that he believed it not to be good policy to enact something that is not enforceable.

219  
220 Michael Harvey stated that his belief is that this will be more enforceable than the current code.

221  
222 Michael Harvey advised the board that they will not be asked to approve this within the next month or two. He  
223 commented that the process would be long and stated that he envisioned at least one more ORC session with the  
224 board for drafts to be reviewed and commented on in preparation for a Planning Board Meeting. He stated that he  
225 envisioned at least six months before action would be taken.

226  
227 Alex Gregory asked what issues Mr. Harvey thought the public might potentially have.

228  
229 Michael Harvey replied that he didn't see any adverse reaction other than the number of signs.

230  
231 Paul Guthrie recommending thinking about mail cart systems as they are federal property.

232  
233 Michael Harvey mentioned that since that is technically in the right of way and since it is federal property that he did  
234 not believe that he had any enforcement or authority to begin with.

235  
236 Adam Beeman asked about electronic billboards.

237  
238 Michael Harvey mentioned that there are currently provisions on billboards and regulatory standards on how many  
239 times they can change in a given 24-hour period. He stated that they are currently existing and will still exist in this  
240 new ordinance. He remarked that time and duration could be regulated but not messages.

241  
242 Kim Piracci questioned why the signs were not under Dillion's Rule and why the state was not mandating what the  
243 rules are.

244  
245 Michael Harvey replied that the state has actually said that the local government is going to adopt the regulatory  
246 standards to address these issues, but they don't have to establish the parameters in which they do them.

247  
248 Michael Harvey asked if there were any other questions.

249  
250 David Blankfard asked if the ordinance would curtail or allow residential signage on their homes.

251  
252 Michael Harvey replied that if it is offensive language then we have the authority to address it, but stated that it would  
253 be interesting to see how far the attorney's office goes in supporting what they consider to be non-content based  
254 standards. He stated that turning the side of your house into a billboard would be a wall sign and is prohibited as  
255 such.

256 Michael Harvey welcomed any further questions and then thanked the board.

257  
258 *ORC was adjourned through consensus*