

**ORANGE COUNTY BOARD OF COMMISSIONERS
CARRBORO BOARD OF ALDERMEN
CHAPEL HILL TOWN COUNCIL**

AGENDA

**JOINT PLANNING PUBLIC HEARING
APRIL 17, 2002
7:30 P.M.
ORANGE COUNTY SOUTHERN HUMAN
SERVICES CENTER
2505 HOMESTEAD ROAD
CHAPEL HILL, NORTH CAROLINA**

**NOTE: BACKGROUND
MATERIAL AVAILABLE
IN THE PLANNING
DEPARTMENT OR THE
CLERK'S OFFICE**

NOTICE TO PEOPLE WITH IMPAIRED HEARING: Audio amplification equipment is available on request. If you need this assistance, please call the County Clerk's Office at 732-8181 or 966-4501.

Time

7:30 A. OPENING REMARKS FROM THE CHAIR

7:35 B. PUBLIC CHARGE

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

7:40 C. JOINT PUBLIC HEARING

Page

1 1. Joint Planning Agreement Amendment (JPA-1-02)

JPA-1-02 is a proposed amendment to the Joint Planning Agreement to provide a linkage with the Water and Sewer Management, Planning and Boundary Agreement. Linkage of the two agreements is part of an overall strategy to align local government land use decisions with public water and sewer permitted areas.

This amendment requires the approval of the Orange County Commissioners, Chapel Hill Town Council, and Carrboro Board of Aldermen.

D. NON-PUBLIC HEARING ITEMS

8:00 15 1. Joint Planning Agreement Timeline

Presentation of a report on time limits specified in the Joint Planning Agreement.

- | | <u>Page</u> | |
|-------|-------------|--|
| 8:15 | 19 | 2. Schools Adequate Public Facilities Ordinance
Presentation of a report on the proposed implementation of the Schools Adequate Public Facilities Memorandum of Understanding and Schools Adequate Public Facilities Model Ordinance. |
| 8:45 | 39 | 3. Land Use Element – Orange County Comprehensive Plan
Presentation of a progress report on the preparation of a new Land Use Element of the Orange County Comprehensive Plan and discussion of a suggested Joint Planning Area task force to review possible land use scenarios for the Rural Buffer. |
| 9:15 | 45 | 4. Chapel Hill Comprehensive Plan Amendments
Presentation of reports on: <ol style="list-style-type: none">a. Progress toward adoption by Orange County of proposed amendments for the Northwest Area presented at the April 2001 Joint Planning Area Public Hearing.b. Discussion of whether or not to initiate an amendment to the Joint Planning Area Land Use Plan to reclassify the Southern Triangle Transition Area from Chapel Hill Transition to Orange County Rural Buffer. |
| 10:00 | | E. ADJOURNMENT |

**ORANGE COUNTY BOARD OF COMMISSIONERS
CARRBORO BOARD OF ALDERMEN
CHAPEL HILL TOWN COUNCIL**

JOINT PLANNING AREA PUBLIC HEARING AGENDA ITEM ABSTRACT

Meeting Date: April 17, 2002

Action Agenda
Item No. C.1

SUBJECT: Joint Planning Agreement Amendment (JPA-1-02)

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

Memorandum from Planning Directors with Attachments

INFORMATION CONTACT:

Craig N. Benedict

Roger Waldon

Roy Williford

TELEPHONE NUMBERS:

Hillsborough 732-8181

Chapel Hill 968-2700

Durham 688-7331

Mebane (336)227-2031

PURPOSE: To receive public comment on a proposed amendment to the Joint Planning Agreement to provide a linkage with the Water and Sewer Management, Planning and Boundary Agreement.

BACKGROUND: The Water and Sewer Management, Planning and Boundary Agreement was developed by a task force over a period of seven years. Task force membership included elected officials and staff from Orange County, Chapel Hill, Carrboro, Hillsborough, and OWASA. The Board of County Commissioners on December 3, 2001 adopted the agreement in its final form.

The preamble to the agreement states the following purposes:

1. To provide a comprehensive, County-wide system of service areas for future utility development and interest areas for dealing with private water and wastewater system problems in areas without public water and sewer service.
2. To complement growth management objectives, land use plans and annexation plans in existing agreements, such as the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Joint Planning Area Land Use Plan.
3. To resolve in advance and preclude future conflicts about future service areas and annexation areas.
4. To provide for predictable long-range water and sewer capital improvement planning and financing.
5. To provide for limitations on water and sewer service in certain areas, as defined.

Linking the Water and Sewer Management, Planning and Boundary Agreement with the Joint Planning Agreement is part of an overall strategy to align local government land use decisions with public water and sewer permitted areas. Accordingly, inconsistent requests for land use amendments by third persons seeking connection to public water and sewer systems would not be recommended for approval. This method is used in other areas around the country to ensure that local government utility plans and land use plans are not thwarted through demands by land owners and the development community insisting that public water and sewer connections be made contrary to the planned service area of the utilities.

The Water and Sewer Management, Planning and Boundary Agreement already contains a reference to the Joint Planning Agreement in Section II.H. The proposed amendment incorporates the Water and Sewer Management, Planning and Boundary Agreement into the Joint Planning Agreement thus formalizing its provisions as land use planning requirements that have the effect of law.

Proposed amendments to the Joint Planning Agreement include the addition of the word "LINKAGE" at the end of ARTICLE 1. PURPOSE, DEFINITIONS, EFFECTIVE DATE; the inclusion of a new Section 1.4 entitled "Linkage with the Water and Sewer Management, Planning and Boundary Agreement;" and the incorporation of Appendix A, the map entitled Water and Sewer Management Planning and Boundary Agreement, as Exhibit B to the Joint Planning Agreement. Proposed text amendments are depicted in **bold underline** in the attachment.

FINANCIAL IMPACT: None.

RECOMMENDATION(S): The Planning staffs of Orange County, Carrboro, and Chapel Hill recommend approval of the proposed amendments to the Joint Planning Agreement. Following conclusion of the public hearing, the matter should be referred to the towns of Chapel Hill and Carrboro for decision and then to the Orange County Planning Board for a recommendation to the Orange County Board of Commissioners. A proposed schedule follows:

Chapel Hill

May 7, 2002 – Planning Board Recommendation
May 29, 2002 – Town Council Decision

Carrboro

May 16, 2002 - Planning Board Recommendation
June 4, 2002 - Board of Aldermen Decision

Orange County

June 4, 2002 - Planning Board Recommendation
June 27, 2002 - County Commissioners Decision

MEMORANDUM

TO: Orange County Board of Commissioners
Chapel Hill Town Council
Carrboro Board of Aldermen

FROM: Craig Benedict, Orange County Planning Director
Roger Waldon, Chapel Hill Planning Director
Roy Williford, Carrboro Planning Director

CC: John Link, Orange County Manager
W. Calvin Horton, Chapel Hill Town Manager
Robert Morgan, Carrboro Town Manager

DATE: April 17, 2002

SUBJECT: Joint Planning Agreement Amendment (JPA-1-02) – Linkage of the Water and Sewer Management, Planning and Boundary Agreement with the Joint Planning Agreement

This memorandum discusses the proposed linkage of the Water and Sewer Management, Planning and Boundary Agreement (hereafter, Water-Sewer Boundary Agreement) with the Joint Planning Agreement.

Background

On November 2, 1987, the Orange County Board of Commissioners, the Carrboro Board of Aldermen, and the Chapel Hill Town Council executed a landmark Joint Planning Agreement. The execution of this Agreement followed a decade of discussions about how to best plan for and manage growth in the areas immediately outside the municipal boundaries of Chapel Hill and Carrboro. Authority to execute the agreement was achieved through passage of special enabling legislation by the North Carolina General Assembly. The Agreement has been amended three times. A copy of Article 1 of the current Joint Planning Agreement is attached.

In December 1993, a task force composed of elected officials and staff from Orange County, Chapel Hill, Carrboro, Hillsborough, and OWASA began working on a Water-Sewer Boundary Agreement; a process that took over seven years. The Board of County Commissioners on December 3, 2001 adopted the agreement in its final form. The preamble to the agreement states the following purposes:

1. To provide a comprehensive, County-wide system of service areas for future utility development and interest areas for dealing with private water and wastewater system problems in areas without public water and sewer service.
2. To complement growth management objectives, land use plans and annexation plans in existing agreements, such as the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Joint Planning Area Land Use Plan.

3. To resolve in advance and preclude future conflicts about future service areas and annexation areas.
4. To provide for predictable long-range water and sewer capital improvement planning and financing.
5. To provide for limitations on water and sewer service in certain areas, as defined.

Discussion

Linking the Water-Sewer Boundary Agreement with the Joint Planning Agreement is part of an overall strategy to align local government land use decisions with public water and sewer permitted areas. Accordingly, inconsistent requests for land use amendments by third persons seeking connection to public water and sewer systems would not be recommended for approval. This method is used in other areas around the country to ensure that local government utility plans and land use plans are not thwarted through demands by land owners and the development community insisting that public water and sewer connections be made contrary to the planned service area of the utilities.

The easiest way to accomplish the linkage is for the Joint Planning Agreement to be amended to include by reference, the adopted Water-Sewer Boundary Agreement. This formality incorporates the Water-Sewer Boundary Agreement into the Joint Planning Agreement thus formalizing its provisions as land use planning requirements that have the effect of law. The Water-Sewer Boundary Agreement already references the Joint Planning Agreement in Section II.H.

Proposed amendments to the Joint Planning Agreement include:

1. The addition of the word "LINKAGE" at the end of ARTICLE 1. PURPOSE, DEFINITIONS, EFFECTIVE DATE;
2. The inclusion of a new Section 1.4 entitled "Linkage with the Water and Sewer Management, Planning and Boundary Agreement;" and
3. The incorporation of Appendix A, the map entitled Water and Sewer Management Planning and Boundary Agreement, as Exhibit B to the Joint Planning Agreement.

Proposed text amendments are depicted in **bold underline** in the attachments.

This Joint Planning Agreement amendment requires a joint public hearing of Orange County, Chapel Hill, and Carrboro followed by separate action of each governing board amending the Joint Planning Agreement.

Recommendation

We recommend approval of the proposed amendments to the Joint Planning Agreement. Following conclusion of the public hearing, the matter should be referred to the towns of Chapel Hill and Carrboro for decision and then to the Orange County Planning Board for a recommendation to the Orange County Board of Commissioners. A proposed schedule follows:

Chapel Hill

May 7, 2002 - Planning Board Recommendation
May 29, 2002 - Town Council Decision

Carrboro

May 16, 2002 - Planning Board Recommendation
June 4, 2002 - Board of Aldermen Decision

Orange County

June 4, 2002 - Planning Board Recommendation
June 27, 2002 - County Commissioners Decision

Attachments:

Proposed amendments to the Joint Planning Agreement

006

Excerpt from Joint Planning Agreement

September 22, 1987
 Amended April 2, 1990
 Amended September 30, 1998
 Amended February 2, 1999

JOINT PLANNING AGREEMENT

THIS AGREEMENT, made and entered into this 2nd day of November, 1987, by and between the COUNTY OF ORANGE, a political subdivision of the State of North Carolina, the TOWN OF CHAPEL HILL, and the TOWN OF CARRBORO, municipal corporations duly created and existing under the laws of North Carolina.

WITNESSETH:

In consideration of the public benefits expected to flow from the cooperative efforts of the parties in establishing a coordinated and comprehensive system of planning within their respective areas of public concern, the parties to this Agreement hereby mutually agree as follows:

ARTICLE 1. PURPOSE, DEFINITIONS, EFFECTIVE DATE , LINKAGE

Section 1.1 Purpose of the Agreement

The purpose of this Agreement is to establish a method of coordinated and comprehensive planning in the Orange County-Chapel Hill-Carrboro Joint Planning Area, as defined herein.

Section 1.2 Definitions

- A. Joint Planning Area. The area within the Rural Buffer and Transition Areas designated on the Joint Planning Area Land Use Map lying outside the extraterritorial planning jurisdiction of Chapel Hill and Carrboro.
- B. Joint Planning Area Land Use Plan. The Orange County-Chapel Hill-Carrboro Joint Planning Land Use Plan dated April, 1986, adopted by Orange

Excerpt from Joint Planning Agreement

County August 19, 1986 (revised October 13, 1986), amended May 4, 1987 and as it may be amended from time to time.

- C. Joint Planning Area Land Use Map. The Orange County-Chapel Hill-Carrboro Joint Planning Area Land Use Map, adopted August 19, 1986 (revised October 13, 1986) and as it may be amended from time to time.
- D. Carrboro Joint Development Review Area (CJDA). The area lying generally west of a division of the Joint Planning Area and shown as such on the copy of the Joint Planning Area Land Use Map attached to this Agreement, labeled Exhibit A, and incorporated herein by reference. Exhibit A is appended to this Agreement solely for the purpose of indicating the CJDA and the CHJDA boundary. Exhibit A is an accurate copy of the Joint Planning Area Land Use Map as of the effective date of this agreement. However, it will only be changed as the Joint Planning Area Land Use Map is amended if the Map amendments change the location of either the CJDA or the CHJDA.
- E. Chapel Hill Joint Development Review Area (CHJDA). The area lying generally east of a division of the Joint Planning Area and shown as such on the copy of the Joint Planning Area Land Use Map attached to this Agreement, labeled Exhibit A, and incorporated herein by reference. Exhibit A is appended to this Agreement solely for the purpose of indicating the CJDA and the CHJDA boundary. Exhibit A is an accurate copy of the Joint Planning Area Land Use Map as of the effective date of this agreement. However, it will only be changed as the Joint Planning Area Land Use Map is

amended if the Map amendments change the location of either the CJDA or the CHJDA.

- F. Joint Courtesy Review Area. A portion of the northern Rural Buffer Area bounded on the east by I-40 and shown as such on Exhibit A.
- G. Rural Buffer. That portion of the Joint Planning Area designated on the Joint Planning Area Land Use Map as such and designated in the Joint Planning Area Land Use Plan as Rural Residential, Agricultural, Public/Private Open Space, Resource Conservation, Extractive/Disposal Use and the overlay district designated University Lake Watershed Area. This area is further defined as being a low-density area consisting of single-family homes situated on large lots having a minimum size of two (2) acres. The Rural Buffer is further defined as land which, although adjacent to an Urban or Transition area, is rural in character and which will remain rural, contain low-density residential uses and not require urban services (public utilities and other town services).
- H. Transition Area. That portion of the Joint Planning Area designated on the Joint Planning Area Land Use Map as such. This area is further defined as being in transition from rural to urban or already urban in density. Urban services (public utilities and other town services) are now provided to this area or are projected to be provided to this area. The portion of the Transition Area located in the CJDA shall be further divided into Transition Area I and Transition Area II on the Joint Planning Area Land Use Map. The Joint Planning Area Land Use Plan shall provide that, within Transition Area II, no

Excerpt from Joint Planning Agreement

tract may, after the effective date of this Agreement, be approved for development at a density that exceeds one (1) housing unit per gross acre until at least 75% of the gross land area of Transition Area I consists of any combination of:

1. lots containing one acre or less;
2. residential developments approved for development at a density of at least one unit per acre;
3. streets, roads and utility easements located outside of lots containing one acre or less;
4. lots or tracts that are used for commercial, industrial, institutional or governmental purposes;
5. tracts that are owned by the University of North Carolina or other non-profit entities and that are not available for development.

This density limitation does not apply to Village Mixed Use districts or Office/Assembly districts as provided for in the Facilitated Small Area Plan for Carrboro's Northern Study Area.

- I. Development Permit. Major subdivision preliminary plat approval and any discretionary permit (whether called conditional or special use permit or some other term) issued by the Orange County Board of Commissioners, the Chapel Hill Town Council, or the Carrboro Board of Aldermen.
- J. Involuntary Annexation. Annexation authorized or undertaken pursuant to G.S. 160A-31, Article 4A, Part 3.
- K. Voluntary Annexation. Annexation authorized or undertaken pursuant to G.S. Chapter 160A-31 or G.S. Chapter 160A, Article 4A, Part 4.

Excerpt from Joint Planning Agreement

Section 1.3 Effective Date and Duration

- A. This Agreement, except as provided below, shall become effective on the effective date of an Orange County ordinance (1) adopting this Agreement (after it has been approved by Chapel Hill and Carrboro); (2) amending Orange County's Zoning Ordinance (including Zoning Atlas) and Subdivision Regulations as prescribed in Section 2.1 of this Agreement; (3) amending the Joint Planning Area Land Use Plan to reflect the existence of Transition Area I and Transition Area II; and (4) amending the Joint Planning Area Land Use Map to show the location of Transition Area I and Transition Area II as indicated on Exhibit A. Any previously adopted Agreements shall become null and void upon this date. The Appendix to this Agreement shall become effective upon the execution of this Agreement.
- B. This Agreement, including any Appendix hereto, shall remain in effect until terminated by mutual agreement or by withdrawal of any party. Subject to termination provisions of this Agreement, annexation provisions of this Agreement shall be valid for not more than 20 years and may thereafter be renewed. A party may not withdraw until it holds a public hearing on the proposed withdrawal followed by written notices to the other parties within thirty (30) days of the public hearing. The withdrawal shall be effective one (1) year following receipt by the other party of the written notice. Withdrawal of one party shall not invalidate the Agreement with respect to remaining parties.
- C. Upon execution of this Agreement, the parties agree that each will take, in a timely manner and without unnecessary delay, all steps (including but not limited to preparation and adoption of Zoning maps, appointment of Transition Area

Excerpt from Joint Planning Agreement

representatives to Planning Boards and Boards of Adjustment, and all required land use ordinance amendments) required to cause this Agreement to become effective, and will notify the other parties when those steps have been taken. Orange County will notify the Towns by resolution when this Agreement becomes effective. This Agreement may become effective as to two parties pending completion of steps necessary to make effective a 3-party Agreement.

Section 1.4 Linkage with the Water and Sewer Management, Planning and Boundary Agreement

This agreement shall be made part of the Water and Sewer Management, Planning and Boundary Agreement by reference. Appendix A to the Water and Sewer Management, Planning and Boundary Agreement, the map entitled Water and Sewer Management Planning and Boundary Agreement as may be amended from time to time is hereby incorporated into this agreement as Exhibit B. Termination of the Water and Sewer Management, Planning and Boundary Agreement does not terminate this agreement. Termination of this agreement can only be accomplished as provided in this agreement. Similarly, the withdrawal of a party from the Water and Sewer Management, Planning and Boundary Agreement does not constitute withdrawal from this agreement. Withdrawal from this agreement can only be accomplished as provided in this agreement.

Appendix A

Water and Sewer Management Planning and Boundary Agreement

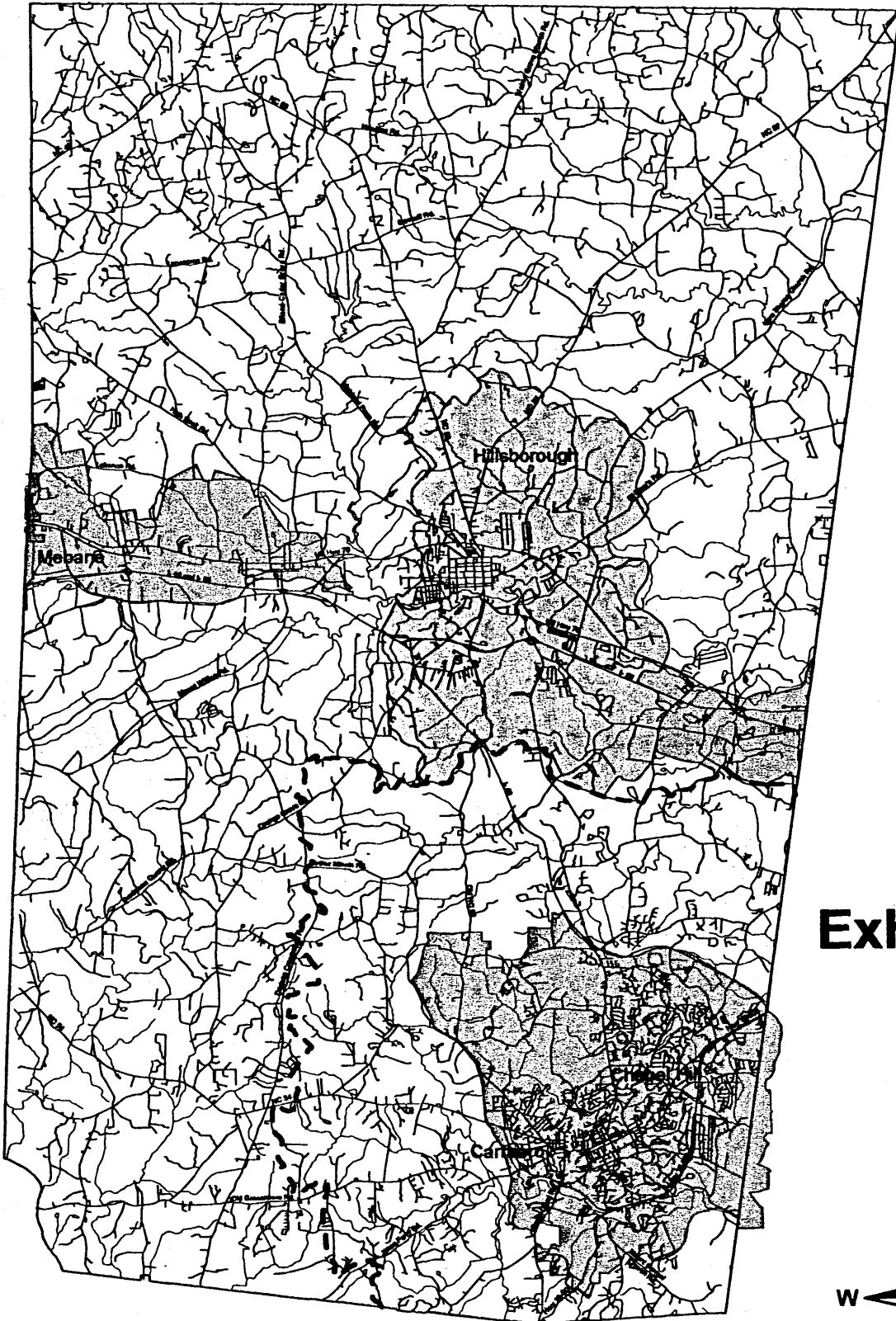
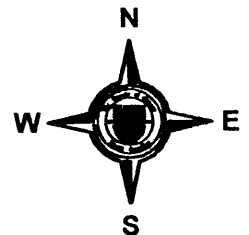


Exhibit B



Legend

Water and Sewer Boundaries

	Hillborough Primary Service Area		Rural Buffer Boundary
	OWASA Long-Term Interest Area		
	Orange County Primary Service Area		
	OWASA Primary Service Area		
	Orange County Long-Term Interest Area		

County of Orange
 Planning and Inspection Department
 Revised Map Prepared by Carrie Whitehill
 11/14/01
 Original Map Prepared by Beth McFarland
 04/17/97

014

**ORANGE COUNTY BOARD OF COMMISSIONERS
CARRBORO BOARD OF ALDERMEN
CHAPEL HILL TOWN COUNCIL**

JOINT PLANNING AREA PUBLIC HEARING AGENDA ITEM ABSTRACT

Meeting Date: April 17, 2002

Action Agenda
Item No. D.1

SUBJECT: Joint Planning Agreement Timeline

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N) No

ATTACHMENT(S):
Memorandum from Planning Directors

INFORMATION CONTACT:

Roger Waldon
Craig Benedict
Roy Williford

TELEPHONE NUMBERS:

Hillsborough	732-8181
Chapel Hill	968-2700
Durham	688-7331
Mebane	(336)227-2031

PURPOSE: To receive a report on time limit provisions in the Joint Planning Agreement related to annexation.

BACKGROUND: On November 2, 1987, the Orange County Board of Commissioners, the Carrboro Board of Aldermen, and the Chapel Hill Town Council executed a landmark Joint Planning Agreement. The execution of this Agreement followed a decade of discussions about how to best plan for and manage growth in the areas immediately outside the municipal boundaries and extraterritorial jurisdiction (ETJ) of Chapel Hill and Carrboro.

The second sentence in Section 1.3.B of the Joint Planning Agreement states: "Subject to termination provisions of this Agreement, annexation provisions of this Agreement shall be valid for not more than 20 years and may be thereafter renewed." These provisions will expire in July 2006 if they are not renewed. Annexation provisions include notification.

According to Section 1.3.B, the Joint Planning Agreement itself "shall remain in effect until terminated by mutual agreement or by withdrawal of any party." Therefore, there is not a date sensitive expiration or termination.

FINANCIAL IMPACT: None.

RECOMMENDATION(S): Receive as information.

Discuss whether or not it would be desirable to initiate a time extension of the annexation provisions of the Joint Planning Agreement.

If there is interest, a possible next step would be to direct the Managers and Planning Staffs to prepare an amendment for consideration at the next Joint Public Hearing, in fall, 2002.

MEMORANDUM

TO: Orange County Board of Commissioners
Chapel Hill Town Council
Carrboro Board of Aldermen

FROM: Craig Benedict, Orange County Planning Director
Roger Waldon, Chapel Hill Planning Director
Roy Williford, Carrboro Planning Director

CC: John Link, Orange County Manager
W. Calvin Horton, Chapel Hill Town Manager
Robert Morgan, Carrboro Town Manager

DATE: April 17, 2002

SUBJECT: Extension of Joint Planning Agreement Provisions Related to Annexation

This memorandum discusses time limit provisions of the existing Joint Planning Agreement, and suggests possibilities for extension of the annexation provisions of the Agreement.

Background

On November 2, 1987, the Orange County Board of Commissioners, the Carrboro Board of Aldermen, and the Chapel Hill Town Council executed a landmark Joint Planning Agreement. The execution of this Agreement followed a decade of discussions about how to best plan for and manage growth in the areas immediately outside the municipal boundaries of Chapel Hill and Carrboro. Authority to execute the agreement was achieved through passage of special enabling legislation by the North Carolina General Assembly. The Agreement has been amended three times. A copy of the current Joint Planning Agreement is attached.

The second sentence in Section 1.3.B of the Joint Planning Agreement states: "Subject to termination provisions of this Agreement, annexation provisions of this Agreement shall be valid for not more than 20 years and may be thereafter renewed." These provisions will expire in July 2006 if they are not renewed. According to Section 1.3.B, the Joint Planning Agreement itself "shall remain in effect until terminated by mutual agreement or by withdrawal of any party."

Discussion

We believe that this Agreement has served the citizens of Carrboro, Chapel Hill, and Orange County well, and is a model for how cooperation can be achieved among neighboring jurisdictions. As we approach the 20th anniversary of the Agreement, we believe it is reasonable and desirable to consider extending the annexation provisions of the Agreement for another 20 years. Tonight's Joint Public Hearing represents an opportunity for these three elected boards to discuss whether or not there is interest in extending these provisions of the Agreement.

Recommendation

We recommend that the three Boards discuss whether or not it would be desirable to initiate a time extension of the annexation provisions of the Joint Planning Agreement.

If there is interest, a possible next step would be to direct the Managers and Planning Staffs to prepare an amendment for consideration at the next Joint Public Hearing, in fall, 2002.

**ORANGE COUNTY BOARD OF COMMISSIONERS
CARRBORO BOARD OF ALDERMEN
CHAPEL HILL TOWN COUNCIL**

JOINT PLANNING AREA PUBLIC HEARING AGENDA ITEM ABSTRACT

Meeting Date: April 17, 2002

Action Agenda
Item No. D.2

SUBJECT: Schools Adequate Public Facilities Ordinance

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- 1) Memorandum from Planning Directors w/Attachments
- 2) Schools APFO MOU and Ordinance as approved by The Joint Schools and Land Use Council
- 3) Status of Memorandum of Understanding and Adequate Public Facilities Ordinance
- 4) Procedure for Execution of Schools APFO

INFORMATION CONTACT:

**Craig Benedict
Roger Waldon
Roy Williford**

TELEPHONE NUMBERS:

Hillsborough	732-8181
Chapel Hill	968-2700
Durham	688-7331
Mebane	(336)227-2031

PURPOSE: To receive a report on the proposed implementation of the Schools Adequate Public Facilities Memorandum of Understanding (MOU) and Schools Adequate Public Facilities Model Ordinance including current membership and capacity data.

BACKGROUND: Residential growth has increased sharply in Orange County over the past decade, in large part due to the well known quality of the public schools in the county. Through a deliberate process of over two years, concern has been expressed by elected officials at both the county school districts and municipal levels that overcrowding in the schools could jeopardize the quality education that students receive and parents have come to expect. In 1999, the Schools and Land Use Councils (SLUC) a joint committee of elected officials and staff members from the county school districts and towns of Carrboro, Chapel Hill, and Hillsborough began the process of designing ways to ensure superior schools without unduly jeopardizing growth.

This committee began to look at the issue of linking new development to the capacity of schools as a way to help ensure quality schools in Orange County. From this committee was developed a Schools Adequate Public Facilities MOU and model ordinance. This MOU and model ordinance have been refined and approved in November 2001 by the Joint SLUC into its current form.

The MOU and model Schools Adequate Public Facilities Ordinance in its present form has been recommended for approval to the four jurisdictions considering the ordinance. Before the ordinance can take effect, seven issues must be agreed upon:

- 1. Level of service limits at each school level (MOU Section 1)
- 2. Membership determination date (MOU Section 1a)
- 3. Building capacity (MOU Section 1b)
- 4. Capital Improvement Plan (MOU Section 1c(i))
- 5. Student Growth Rate (MOU Section 1c(ii))
- 6. Student Projection Method (MOU Section 1c(iii))
- 7. Student Generation Rate per Dwelling Unit (MOU Section 1c(iv))

The MOU can be approved with the issues noted above as being resolved/addressed prior to the actual ordinance being added to the land development regulations.

FINANCIAL IMPACT: None at this time.

RECOMMENDATION(S): Discuss decision options on the seven issues to be decided before the Schools APFO ordinance can go into effect. In addition, guidance regarding who will be responsible and when the seven key issues can be organized and recommended.

MEMORANDUM

TO: Orange County Board of Commissioners
Carrboro Board of Aldermen
Chapel Hill Town Council

FROM: Craig Benedict, Orange County Planning Director
Roy Williford, Carrboro Planning Director
Roger Waldon, Chapel Hill Planning Director

CC: John Link, Orange County Manager
W. Calvin Horton, Chapel Hill Town Manager
Robert Morgan, Carrboro Town Manager

SUBJECT: Status Report on Schools Adequate Public Facility Ordinance

DATE: April 17, 2002

This memorandum reports on the status of discussions and actions related to establishment of a Schools Adequate Public Facilities Ordinance.

BACKGROUND

Approximately four years ago, at the suggestion of the Orange County Board of Commissioners, a "Schools and Land Use Council" was formed. The purpose of the group was to discuss issues related to school location, school capacity, land use issues and new development proposals. A primary function was that of information sharing. The Schools and Land Use Council is made up of elected representatives from the Chapel Hill Town Council, the Carrboro Board of Aldermen, the Orange County Board of Commissioners, and representatives from the two school systems operating in Orange County.

From this group, a concern arose that capacity of schools historically has not kept pace with development in our two school districts. The group formed a technical committee to develop a draft, county-wide Schools Adequate Public Facilities Ordinance. The technical committee was made up of attorneys from each jurisdiction as well as the two school systems, the Planning Directors of the three jurisdictions, and the Facility Planners from the two school districts. The technical committee met over the course of a year. The product of the committee included two pieces: A proposed Memorandum of Understanding and a draft Ordinance.

Orange County has taken the lead on this proposal. The County held a Public Hearing for consideration of a set of proposed regulations on November 27, 2000, and transmitted the Memorandum of Understanding and Draft Ordinance to the other boards for review.

THE PROPOSAL

The attached Memorandum of Understanding is a proposed agreement between the County, the Chapel Hill/Carrboro City Schools, and the municipalities of Chapel Hill and Carrboro. The Memorandum provides the framework for this initiative, and would commit all parties to support this cooperative approach (which includes the adoption of the proposed Adequate Public Facilities Ordinance for Schools).

The attached draft Adequate Public Facilities Ordinance for Schools is a development regulation tool which proposes to synchronize new residential development with the availability of school facilities. The draft Ordinance proposes to pace growth by affecting the timing of development such that the growth matches the availability of school facilities.

KEY FEATURES OF THE MEMORANDUM OF UNDERSTANDING

The proposed Memorandum of Understanding would:

- Direct all parties to work cooperatively to develop a realistic Capital Improvements Plan for the construction of new school facilities.
- Establish the levels of crowding that would define "over capacity."
- Establish the process for determining projections of student enrollment, key to determination of whether capacity will be available in future years.
- Establish the sequence and process for a developer obtaining a certificate of capacity.
- Direct parties with zoning jurisdiction to incorporate implementing language in their respective zoning regulations.

KEY FEATURES OF THE DRAFT ORDINANCE AMENDMENT

The proposed Adequate Public School Facilities model ordinance would:

- Include provisions in the regulations of each jurisdiction that require that, following approval of a new residential subdivision, a Special Use Permit, or a Site Plan Review that contains a residential component, a developer would need to obtain a Certificate of Adequacy of Public School Facilities from the Chapel Hill Carrboro City Schools prior to issuance of a Zoning Compliance Permit authorizing construction.
- Require that a Certificate of Adequate Public School Facilities is to be requested from the

Chapel Hill/Carrboro School Board. The Memorandum of Understanding addresses the allowable capacity for the district.

- Allow a Certificate of Adequate Public School Facilities to run with the land (it could not be transferred to another parcel).
- Provide the approving jurisdiction with the authority to grant special exceptions.
- Provide the approving jurisdiction with the authority to review the denial of a Certificate request by the School District.

CURRENT STATUS

On April 8, 2002, the Chapel Hill Town Council approved the Memorandum of Understanding as proposed by the Schools and Land Use Council.

The Carrboro Board of Aldermen conducted a Work Session on March 26, 2002 on the current draft Memorandum of Understanding, and is awaiting a report with responses to questions raised at the Work Session.

The Chapel Hill-Carrboro Board of Education previously approved an earlier draft of the Memorandum of Understanding. The current draft will need to be considered by the Board.

The Orange County Board of Commissioners conducted a Public Hearing and decided to transmit these drafts for review by Carrboro, Chapel Hill, and the School Board.

SUMMARY

The next steps in this process include completion of discussions in Carrboro, with possible approval of the Memorandum of Understanding, and scheduling consideration by the Chapel Hill-Carrboro Board of Education. Following action by these potential parties to the agreement, the issue will return to the Orange County Board of Commissioners for consideration and possible approval. If different parties approve different versions of the Memorandum of Understanding, a common version would need to be developed. The Memorandum of Understanding would not become effective until it is approved by all four parties

Following execution of a Memorandum of Understanding, all parties would need to agree on a projection methodology and a set of projections for school membership and school capacity, along with County adoption of a Capital Improvements Program. Following these steps, each of the jurisdictions of Orange County, Carrboro, and Chapel Hill would be in a position to enact ordinances to implement the Memorandum of Understanding. Following adoption of ordinances by all three jurisdictions, the system would become operational.

SCHOOLS ADEQUATE PUBLIC FACILITIES MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this _____ day of _____, 200__, by and between the Town of _____, the Town of _____, Orange County, and the _____ (the "School District").

WHEREAS, the portion of Orange County, served by the [Chapel Hill/Carrboro] [Orange County] School System has for the past decade been experiencing rapid growth in population; and

WHEREAS, this growth, and that which is anticipated, creates a demand for additional school facilities to accommodate the children who reside within new developments; and

WHEREAS, the responsibility for planning for and constructing new school facilities lies primarily with the [Chapel Hill/Carrboro] [Orange County] School Board, with funding provided by Orange County; and

WHEREAS, [Chapel Hill, Carrboro, Orange County and the Chapel Hill School District] [Orange County, Hillsborough, and the Orange County School District], have recognized the need to work together to ensure that new growth within the School District occurs at a pace that allows Orange County and the School District to provide adequate school facilities to serve the children within such new developments;

WHEREAS, the parties have worked cooperatively and developed a system wherein school facilities are currently adequate to meet the needs of the citizens of the county and will continue to maintain a Capital Investment Plan (CIP) that is financially feasible and synchronized with historical growth patterns;

NOW, THEREFORE, the parties to this Memorandum hereby agree as follows:

Section 1. The parties will work cooperatively to develop a realistic Capital Improvement Plan for the construction of schools such that, from the effective date of this Memorandum, school membership within each school level (i.e. elementary, middle or high) does not exceed the following:

Elementary School	105% of Building Capacity
Middle School	107% of Building Capacity
High School	110% of Building Capacity

a. For purposes of this Memorandum, the term "school membership" means the actual number of students attending school as of November 15 of each year. The figure is determined by considering the number of students enrolled (i.e. registered, regardless of whether a student is no longer attending school) and making adjustments for withdrawals, dropouts, deaths, retentions and promotions. Students who are merely absent from

class on the date membership is determined as a result of sickness or some other temporary reason are included in school membership figures. Each year the School District shall transmit its school membership to the parties to this agreement no later than five (5) school days after November 15.

- b. For purposes of this Memorandum, "building capacity" will be determined by reference to State guidelines and the School District guidelines (consistent with CIP School Construction Guidelines/policies developed by the School District and the Board of County Commissioners) and will be determined by a joint action of the School Board and the Orange County Board of Commissioners. As used herein the term "building capacity" refers to permanent buildings. Mobile classrooms and other temporary student accommodating classroom spaces are not permanent buildings and may not be counted in determining the school districts building capacity.
- c. Prior to the adoption of the ordinances referenced in Section 2, the parties shall reach agreement on the following:
 - (i) A Capital Improvement Program (CIP) that will achieve the objectives of this Memorandum;
 - (ii) A projected growth rate for student membership within the School District's three school levels during the ten year life of the CIP;
 - (iii) A methodology for determining the projected growth rate for student membership; and
 - (iv) The number of students at each level expected to be generated by each new housing type (i.e., the "student generation rate").
- d. After the adoption of the ordinances referenced in Section 2, the Orange County Board of Commissioners may change the projected student membership growth rate, the methodology used to determine this rate, or the student generation rate if the Board concludes that such a change is necessary to predict growth more accurately. Before making any such change, the Board shall receive and consider the recommendation of a staff committee consisting of the planning directors of the Town(s) and the County and a representative of the School District appointed by the Superintendent. The committee shall provide a copy of its recommendation to the governing boards of the other parties to this memorandum at the time it provides such recommendation to the Board of Commissioners. In making its recommendation, the committee shall consider the following, and in making its determination, the Board of Commissioners shall consider the following:

- (i) The accuracy of the methodology and projected growth rate then in use in projecting school membership for the current school year;
- (ii) The accuracy of the student generation rate then in use in predicting the number of students at each level actually generated by each new housing type;
- (iii) Approval of and issuance of CAPS for residential developments that, individually or collectively, are of sufficient magnitude to alter the previously agreed upon school membership growth projections; or
- (iv) Other trends and factors tending to alter the previously agreed upon projected growth rates.

If any such change is made in the projected growth rate, the methodology for determining this rate, or the student generation rate, the Orange County Board of Commissioners shall inform the other parties to this Memorandum prior to February 1st in any year in which such change is intended to become effective what change was made and why it was necessary.

- e. The Orange County Board of Commissioners shall provide a copy of the updated CIP to each of the parties to the Memorandum as soon as it is revised, annually or otherwise.

Section 2. The towns and the county will adopt amendments to their respective ordinances, in substantially the form attached hereto as Exhibit A, to coordinate the approval of residential developments within the School District with the adequacy of existing and proposed school facilities.

Section 3. The following process shall be followed by the School District to receive and take action upon applications for Certificates of Adequacy of Public School Facilities ("CAPS") submitted by persons who are required by an implementing ordinance conceptually similar to that attached as Exhibit A to have such certificates before the development permission they have received from the town or county becomes effective.

- a. On February 15th of each year, the School District shall calculate the building capacity of each school level and the school membership of each school level as of November 15th of the previous year. Also on February 15th of each year, the School District shall calculate the anticipated school membership for each school level and the anticipated building capacity for each school level as of November 15th in each of the following ten years. These calculations shall be made in accordance with the provisions of Section 1 and also in accordance with the remaining provisions of this section.

- b. School membership calculations made on February 15th (utilizing the previous November 15th data) for each of the ten years following the year in which the calculation is made (the base year) shall be determined by applying the projected school membership growth rates determined in accordance with Section 1 of this Memorandum to the actual school membership numbers of the base year.
- c. The school building capacity calculations shall be based upon the following:
 - (i) A calculation of the existing building capacity within each school level;
 - (ii) The anticipated opening date of schools under construction;
 - (iii) The anticipated opening date of schools on the ten-year CIP for which funding has been committed by the Board of Commissioners as a result of an approved bond issue, an approved installment purchase agreement, or otherwise; and
 - (iv) The anticipated closing dates of any schools within the School District.
- d. By comparing the existing and calculated school membership to the existing and calculated school building capacity each year, the School District shall determine what remaining capacity (if any) exists or is projected to exist to accommodate new development. The School District shall make that information known to the local governments within 15 days of the comparison.
- e. As CAPS are issued for new developments during the course of the twelve month period from February 15th of one year to February 15th of the next year, the School District shall continually reduce the remaining available school building capacity in each of the ensuing years wherein new students are projected to be added to the school system by the developments for which the CAPS are given during that year.
- f. When an application for a CAPS is submitted, the School District shall determine the impact on school membership for each school level as calculated on February 15th in each year of the period during which the development is expected to be adding new students to the school system as the result of such new construction. In making this determination, the School District shall rely upon the figures established under Section 1 of this Memorandum as to the number of students at each level expected to be generated by each housing type, and data furnished by the applicable planning department as to the expected rate at which new dwellings within developments similar in size and type to the proposed development are

likely to be occupied. Notwithstanding the foregoing, if, upon request of the applicant, the planning jurisdiction approving the development imposes enforceable conditions upon the development (such as a phasing schedule) to limit the rate at which new dwellings within the development are expected to be occupied, then the School District shall take such limitations into account in determining the impact of the development on school membership.

- g. If the School District determines that the projected capacity of each school level is sufficient to accommodate the proposed development without exceeding the building capacity levels set forth in Section 1 of this Memorandum, then the School District shall issue the CAPS. If the School District determines that the projected capacity of each school level is not sufficient to accommodate the proposed development without exceeding the building capacity levels set forth in Section 1, then the School District shall deny the CAPS. If a CAPS is denied, the applicant may seek approval from the appropriate planning jurisdiction of such modifications to the development as will allow for the issuance of a CAPS, and then reapply for a CAPS.
- h. The School District shall issue CAPS on a "first come first served" basis, according to the date a completed application for a CAPS is received. If projected building capacity is not available and an application for a CAPS is therefore denied, the development retains its priority in line based upon the CAPS application date.

Section 4. A CAPS issued in connection with approval of a subdivision preliminary plat, minor subdivision final plat, site plan, or conditional or special use permit shall expire automatically upon the expiration of such plat, plan, or permit approval.

Section 5. The towns and the county will provide to the School District all information reasonably requested by the School District to assist the District in making its determination as to whether the CAPS should be issued.

Section 6. The School District will use its best efforts to construct new schools and permanent expansions or additions to existing schools in accordance with the CIP.

Section 7. Orange County will use its best efforts to provide the funding to carry out the Capital Improvement Plan referenced in Section 1 above.

Section 8. In recognition of the fact that some new development will have a negligible impact on school capacity, a CAPS shall not be required under the following circumstances:

- a. For residential developments restricted by law and/or covenant for a period of at least thirty years to housing for the elderly and/or adult care living and/or adult special needs;

- b. For residential developments restricted for a period of at least thirty years to dormitory housing for university students.

If the use of a development restricted as provided above changes, then before a permit authorizing such change of use becomes effective, a CAPS must be issued just as if the development were being constructed initially.

Section 9. The parties acknowledge that this Memorandum of Understanding is not intended to and does not create legally binding obligations on any of the parties to act in accordance with its provisions. Rather, it constitutes a good faith statement of the intent of the parties to cooperate in a manner designed to meet the mutual objective of all the parties that the children who reside within the School District are able to attend school levels that satisfy the level of service standards set forth herein.

Exhibit A

**AN ORDINANCE AMENDING THE _____ DEVELOPMENT
ORDINANCE TO REQUIRE THAT THE ADEQUACY OF PUBLIC
SCHOOL FACILITIES TO ACCOMMODATE NEW DEVELOPMENT
BE CONSIDERED IN THE APPROVAL PROCESS**

WHEREAS, the portion of Orange County served by the [Chapel Hill/Carrboro] [Orange County] school system, has for the past decade been experiencing rapid growth in population; and

WHEREAS, this rapid growth, and that which is anticipated, creates a demand for additional school facilities to accommodate the children who reside within new developments; and

WHEREAS, the responsibility for planning for and constructing new school facilities lies primarily with the [Chapel Hill/Carrboro School Board] [Orange County School Board], with funding provided by Orange County; and

WHEREAS, [Chapel Hill, Carrboro, Orange County and the Chapel Hill/Carrboro School District] [Orange County, Hillsborough, and the Orange County School District] have recognized the need to work together to ensure that new growth within the School District occurs at a pace that allows Orange County and the School District to provide adequate school facilities to serve the children within such new developments; and

WHEREAS, to implement the Memorandum of Understanding between [Orange County, Chapel Hill, Carrboro, and the Chapel Hill/Carrboro School Board] [Orange County, Hillsborough, and the Orange County School Board], the [governing body] desires to provide a mechanism to assure that, to the extent possible, new development will take place only when there are adequate public school facilities available, or planned, which will accommodate such new development;

NOW THEREFORE, _____ ORDAINS:

Section 1. Section _____ of the _____ Development Ordinance is amended by adding a new _____ to read as follows:

ADEQUATE PUBLIC SCHOOL FACILITIES

1. Purpose.

The purpose of this ordinance is to ensure that, to the maximum extent practical, approval of new residential development will become effective only when it can reasonably be expected that adequate public school facilities will be available to accommodate such new development.

2. Certificate of Adequacy of Public School Facilities.

(a) Subject to the remaining provisions of this [article], no approval under this ordinance of a subdivision preliminary plat, minor subdivision final plat, site plan, or conditional or special use permit for a residential development shall become effective unless and until Certificate of Adequacy of Public School Facilities (CAPS) for the project has been issued by the School District.

(b) A CAPS shall not be required for a general use or conditional use rezoning or for a master land use plan. However, even if a rezoning or master plan is approved, a CAPS will nevertheless be required before any of the permits or approvals identified in subsection (a) of this section shall become effective, and the rezoning of the property or approval of a master plan provides no indication as to whether the CAPS will be issued. The application for rezoning or master plan approval shall contain a statement to this effect.

(c) A CAPS must be obtained from the School District. The School District will issue or deny a CAPS in accordance with the provisions of the Memorandum of Understanding between [Chapel Hill, Carrboro, Orange County, and the Chapel Hill Carrboro School District] [Orange County, Hillsborough, and the Orange County School District] dated _____.

(d) A CAPS attaches to the land in the same way that development permission attaches to the land. A CAPS may be transferred along with other interests in the property with respect to which such CAPS is issued, but may not be severed or transferred separately.

3. Service Levels.

(a) This section describes the service levels regarded as adequate by the parties to the Memorandum of Understanding described in subsection (b) with respect to public school facilities.

(b) As provided in the Memorandum of Understanding between [Orange County, Chapel Hill, Carrboro, and the Chapel Hill/Carrboro School District] [Orange County, Hillsborough, and the Orange County School District], adequate services levels for public schools shall be deemed to exist with respect to a proposed new residential development if, given the number of school age children projected to reside in that development, and considering all the factors listed in the Memorandum of Understanding, projected school membership for the elementary schools, the middle schools, and the high school(s) within the [Chapel Hill/Carrboro] [Orange County] School District will not exceed the following percentages of the building capacities of each of the following three school levels:

elementary school level	<u>105%</u>
middle school level	<u>107%</u>
high school level	<u>110%</u>

For purposes of this ordinance, the terms "building capacity" and "school membership" shall have the same meaning attributed in the Schools Adequate Public Facilities Memorandum of Understanding among the Towns of _____, _____ and _____, Orange County and the _____ Board of Education.

4. Expiration of Certificates of Adequacy of Public School Facilities.

A CAPS issued in connection with approval of a subdivision preliminary plat, minor subdivision final plat, site plan, or conditional or special use permit shall expire automatically upon the expiration of such plat, plan, or permit approval.

5. Exemption From Certification Requirement for Development with Negligible Student Generation Rates

In recognition of the fact that some new development will have a negligible impact on school capacity, a CAPS shall not be required under the following circumstances:

- a. For residential developments restricted by law and/or covenant for a period of at least thirty years to housing for the elderly and/or adult care living and/or adult special needs;
- b. For residential developments restricted for a period of at least thirty years to dormitory housing for university students.

If the use of a development restricted as provided above changes, then before a permit authorizing such change of use becomes effective, a CAPS must be issued just as if the development were being constructed initially.

6. Applicability to Previously Approved Projects and Projects Pending Approval.

(a) Except as otherwise provided herein, the provisions of this ordinance shall only apply to applications for approval of subdivision preliminary plats, minor subdivision final plats, site plans and conditional or special use permits that are submitted for approval after the effective date of this ordinance

(b) The provisions of this ordinance shall not apply to amendments to subdivision preliminary plats, minor subdivision final plats, site plans, or special or conditional use permit approvals issued prior to the effective date of this ordinance so long as the approvals have not expired and the proposed amendments do not increase the number of dwelling units authorized within the development by more than five percent or five dwelling units, whichever is less.

(c) The [governing body] shall issue a special exception to the CAPS requirement to an applicant whose application for approval of a subdivision preliminary plat, minor subdivision final plat, site plan or conditional or special use permit covers property within a planned unit development or master plan project that was approved prior to the effective date of this ordinance, if the [governing body] finds, after an evidentiary hearing, that the applicant has (1) applied to the School District for a CAPS and the application has been denied, (2) in good faith made substantial expenditures or incurred substantial binding obligations in reasonable reliance on the previously obtained planned unit development or master plan approval, and (3) would be unreasonably prejudiced if development in accordance with the previously approved development or plan is delayed due to the provisions of this ordinance. In deciding whether these findings can be made, the [governing body] shall consider the following, among other relevant factors:

(1) Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities which were designed to serve or to be paid for in part by the development of portions of the planned unit development or master planned project that have not yet been approved for construction;

(2) Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities that directly benefit other properties outside the development in question or the general public;

(3) Whether the developer has donated land to the School District for the construction of school facilities or otherwise dedicated land or made improvements deemed to benefit the School District and its public school system;

(4) Whether the developer has had development approval for a substantial amount of time and has in good faith worked to timely implement the plan in reasonable reliance on the previously obtained approval;

(5) The duration of the delay that will occur until public school facilities are improved or exist to such an extent that a CAPS can be issued for the project, and the effect of such delay on the development and the developer.

(d) The decision of the [governing body] involving a special exception application under subsection (c) is subject to review by the Orange County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after a written copy of the

decision [of the governing body] is delivered to the applicant and every other party who has filed a written request for such copy with the Clerk to the [governing body] at the time of its hearing on the application for a special exception. The written copy of the decision of the [governing body] may be delivered either by personal service or by certified mail, return receipt requested.

(e) The [chair or the mayor] of the [governing body] or any member temporarily acting as [chair or mayor] may, in his or her official capacity, administer oaths to witnesses in any hearing before the [governing body] concerning a special exception.

7. Appeal of School District Denial of a CAPS.

The applicant for a CAPS which is denied by the School District may, within 30 days of the date of the denial, appeal the denial to the [governing body] of [local government from which development permit is sought]. Any such appeal shall be heard by the [governing body] at an evidentiary hearing before it. At this hearing the School District will present its reasons for the denial of the CAPS and the evidence it relied on in denying the CAPS. The applicant appealing the denial may present its reasons why the CAPS application should have, in its view, been approved and the evidentiary basis it contends supports approval. The [governing body] may (1) affirm the decision of the School District, (2) remand to the School District for further proceedings in the event evidence is presented at the hearing before the [governing body] not brought before the School District, or (3) issue a CAPS. The [governing body] will only issue a CAPS if it finds that the CAPS should have been issued by the School District as prescribed in the Memorandum of Understanding among the School District, Orange County and the [governing body]. A decision of the [governing body] affirming the School District may be appealed by the applicant for a CAPS by proceedings in the nature of certiorari and as prescribed for an appeal under Section 6(d) of this ordinance.

8. Information Required From Applicants.

The applicant for a CAPS shall submit to the School District all information reasonably deemed necessary by the School District to determine whether a CAPS should be issued under the provision of the Memorandum of Understanding between the [governing body], Orange County, and the School District. An applicant for a CAPS special exception or an applicant appealing a CAPS denial by the School District shall submit to the [governing body] all information reasonably deemed necessary by the [governing body] to determine whether a special exception should be granted as provided in Section 6(d) of this ordinance or for the hearing of an appeal of a School District denial of a CAPS as provided in Section 7 of this ordinance. A copy of a request for a CAPS special exception or of an appeal of a School District denial of a CAPS shall be served on the superintendent of the School District. Service may be made by personal delivery or certified mail, return receipt requested.

Section 2. This ordinance shall become effective _____.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this ____ day of _____, 200__.

Ayes:

Noes:

Absent or Excused:

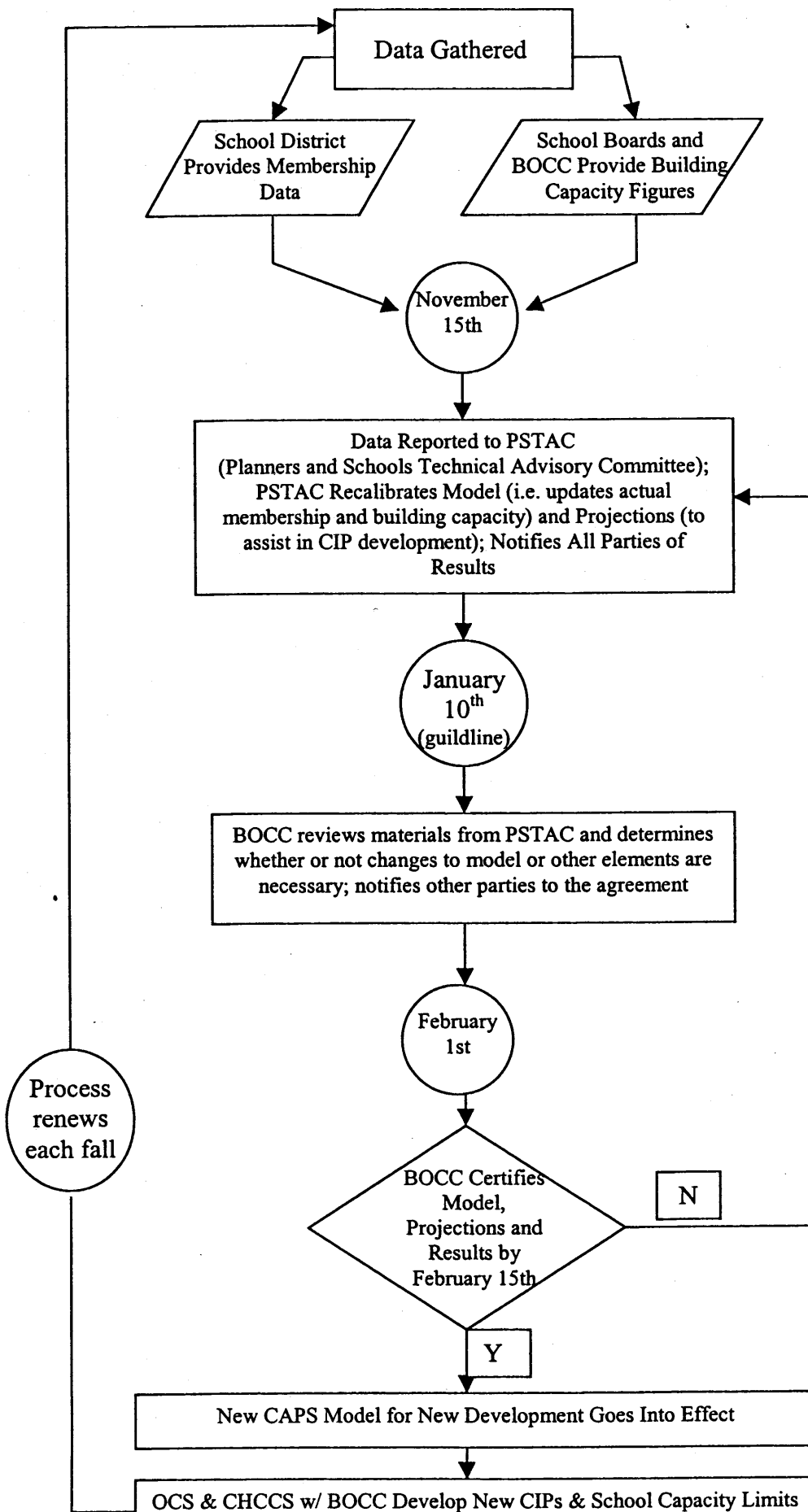
STATUS OF MEMORANDUM OF UNDERSTANDING AND ADEQUATE PUBLIC FACILITIES ORDINANCE						
Jurisdiction	Memorandum of Understanding*			Adequate Public Facilities Ordinance		
	Review	Public Hearing	Adoption	Review	Public Hearing	Adoption
Carrboro	6-12-01					
	3-26-02					
Chapel Hill	2-13-01	2-19-01	4-8-02			
Hillsborough	3-25-01					
	3-11-02					
Orange County	9-25-00	5-28-02?				
	10-02-00					
Chapel Hill-Carrboro City Schools			1-17-01 **			
Orange County Schools			12-11-00 **			

Schedule updated on 4-9-02

* Includes model APFO

** May reapprove to note late 2001 changes

Procedure for Execution of School APFO



**ORANGE COUNTY BOARD OF COMMISSIONERS
CARRBORO BOARD OF ALDERMEN
CHAPEL HILL TOWN COUNCIL**

JOINT PLANNING AREA PUBLIC HEARING AGENDA ITEM ABSTRACT

Meeting Date: April 17, 2002

**Action Agenda
Item No. D.3**

SUBJECT: Land Use Element – Orange County Comprehensive Plan

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):
Memorandum from Planning Directors w/map

INFORMATION CONTACT:
Craig Benedict, Ext. 2592

TELEPHONE NUMBERS:

Hillsborough	732-8181
Chapel Hill	968-2700
Durham	688-7331
Mebane	(336)227-2031

PURPOSE: To receive a report on the preparation of a new Land Use Element of the Orange County Comprehensive Plan.

BACKGROUND: Work is currently underway on a new Land Use Element – Orange County Comprehensive Plan. For this task, the County planning jurisdiction is being divided into eight planning areas, each of which will have a Small Area Planning Committee (SAPC). For southeastern Orange County, a Carrboro/Chapel Hill Joint Planning Area SAPC is proposed. A primary task of this committee will be to review and comment on possible land use scenarios for the Rural Buffer.

FINANCIAL IMPACT: None.

RECOMMENDATION(S): Receive as information.

MEMORANDUM

TO: Orange County Board of Commissioners
Chapel Hill Town Council
Carrboro Board of Aldermen

CC: John Link, Orange County Manager
W. Calvin Horton, Chapel Hill Town Manager
Robert Morgan, Carrboro Town Manager

FROM: Craig Benedict, Orange County Planning Director
Roger Waldon, Chapel Hill Planning Director
Roy Williford, Carrboro Planning Director

DATE: April 17, 2002

SUBJECT: Land Use Element – Orange County Comprehensive Plan

This item appears on tonight's Joint Public Hearing agenda as an informational item only, no action is required.

BACKGROUND

The Orange County Comprehensive Plan Land Use Element was originally adopted in 1981. While the Land Use Element has been amended a number of times, it has never been thoroughly updated since being adopted. Therefore, this has become a priority for Orange County.

Recently, we began the formal process of updating the Orange County Comprehensive Plan. Initially, our focus will be on the Land Use Element. Once that Element is completed, we will begin work on the remainder of the Plan, which includes Housing, Transportation, Gray Infrastructure (Community Facilities), Green Infrastructure (Natural Resources), Recreation and Parks, Intergovernmental Coordination, and Capital Improvements.

The Planning Process consists of the following steps with the BOCC receiving updates between each step:

1. **Base Data.** The Orange County Planning Staff has analyzed census data in order to update the base demographic information in the Plan. In addition, Staff has developed population projections, and existing land use hypothetical growth scenarios for the County.
2. **Comprehensive Plan Land Use Committee (CPLUC).** This Committee would not be a recommending committee, but an important group offering their perspective on the Comprehensive Plan goals, objectives, and policies as applied countywide. Staff would offer base analysis and then discuss planning challenges through presentation of various planning strategies, techniques, and tools. The CPLUC would assist staff in developing the pros and cons of the different scenarios on the Countywide level. CPLUC will consist of 8 members from various County Boards and Commissions.

3. **Small Area Planning Committee (SAPC).** The purpose of the SAPC is to hear about the various challenges that growth is imposing on the sub-area, and the wide range of growth management tools available. The SAPC's will in turn offer their perspectives to Staff on the applicability of the different growth management tools within specific areas of the County. SAPC's could be created for each of the 8 sub-areas and consist of 8 to 12 people.
4. **Public Outreach.** The purpose of this phase of the Planning Process is to provide the community with an opportunity to offer input on the Comprehensive Plan. Staff will conduct a public meeting in each of the eight sub-areas. During each meeting, Staff will explain the Comprehensive Planning process and issues raised by the CLPUC and SAPC's, and solicit input from the general public on the issues.
5. **Adoption and Implementation.** The Board of County Commissioners will review
 - The pros and cons of the various growth management tools,
 - The input from the CLPUC, SAPC's, and the public, and
 - The different policy choices

The BOCC will decide on what Land Use Growth Management Tools to use, and what are the best ways to implement them.

DISCUSSION

Work is currently underway on a new Land Use Element for the Orange County Comprehensive Plan. For this task, the County planning jurisdiction is being divided into eight planning areas, each of which will have a Small Area Planning Committee (SAPC). For southeastern Orange County, a Carrboro/Chapel Hill Joint Planning Area SAPC may be a way of addressing the uniqueness of the area. A primary task of this committee will be to review and comment on possible land use scenarios for the Rural Buffer.

SUMMARY

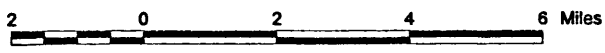
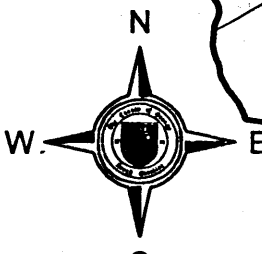
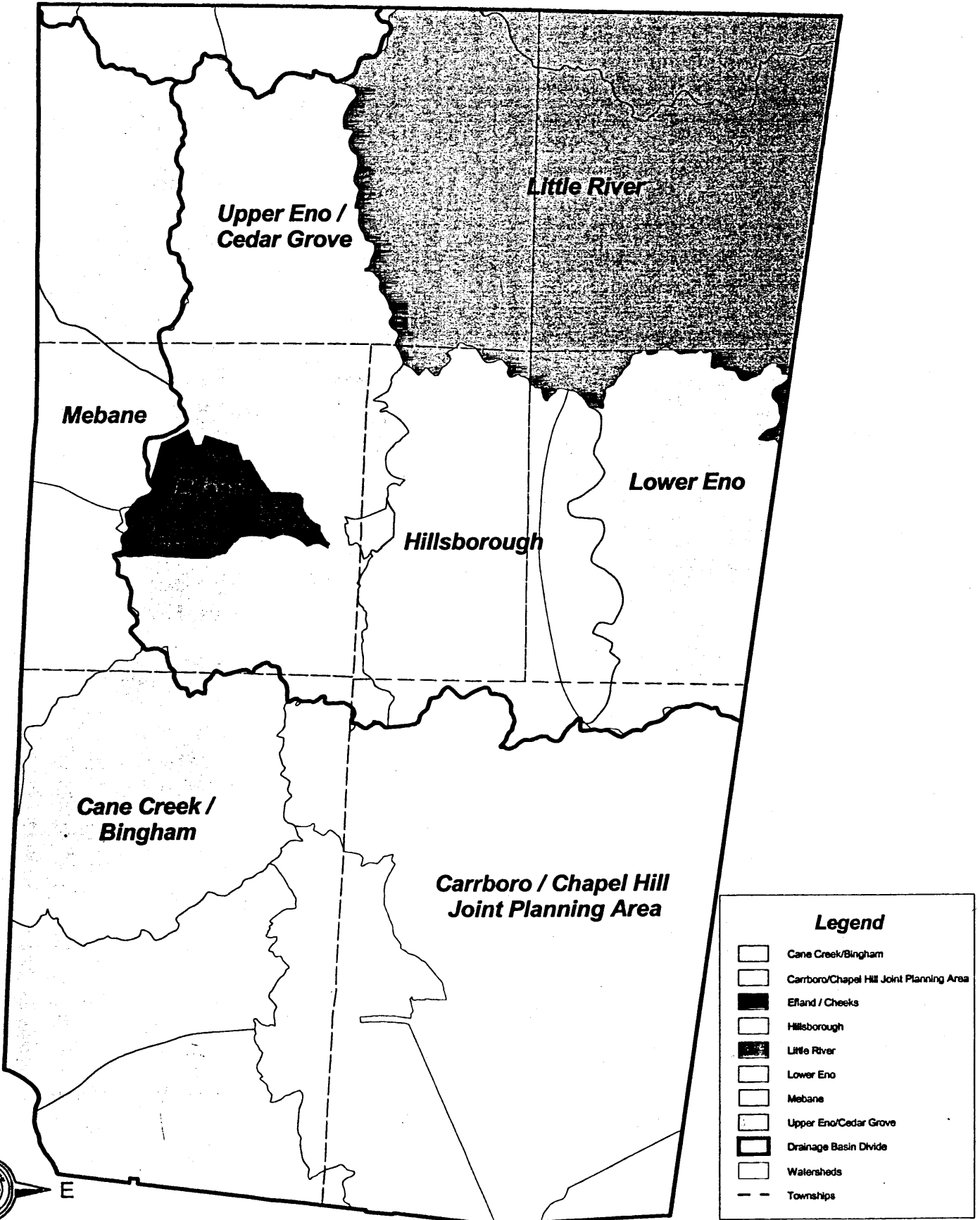
A staff presentation tonight will provide an overview of the County's Comprehensive Planning Process.

RECOMMENDATIONS

Receive as information.

Consider assigning or appointing local government representatives in the future.

Orange County Comprehensive Plan Small Area Plan Boundaries



**ORANGE COUNTY BOARD OF COMMISSIONERS
CARRBORO BOARD OF ALDERMEN
CHAPEL HILL TOWN COUNCIL**

JOINT PLANNING AREA PUBLIC HEARING AGENDA ITEM ABSTRACT

Meeting Date: April 17, 2002

Action Agenda
Item No. D.4

SUBJECT: Chapel Hill Comprehensive Plan Amendments

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Joint Staff Memoranda:

- a. Chapel Hill Comprehensive Plan Amendments for the Northwest Area
- b. Southern Portion of Chapel Hill Transition Area Within Joint Planning Area

INFORMATION CONTACT:

Roger Waldon
Craig Benedict

TELEPHONE NUMBERS:

Hillsborough	732-8181
Chapel Hill	968-2700
Durham	688-7331
Mebane	(336)227-2031

PURPOSE: To receive a report on progress toward adoption by Orange County of amendments presented at the April 11, 2001 Joint Planning Area Public Hearing and discuss the Chapel Hill Southern Triangle Transition Area.

BACKGROUND: At the Joint Planning Area Public Hearing on April 11, 2001 a series of amendments in Chapel Hill's Northwest Area were presented. The purpose of the amendments was to promote consistency with the new Chapel Hill Comprehensive Plan adopted on May 8, 2000. The amendments were:

1. Changing the designation of land south of Eubanks Road from "Open Space" to "Low Residential"
2. Changing the designation of land north of Eubanks Road, between the existing landfill and Millhouse Road, from "Mixed Use, Office Emphasis" to "Open Space."
3. Changing the designation of parcels between Millhouse Road and Interstate 40 from "Mixed Use, Office Emphasis" to "Rural Residential."

Adoption of the amendments by Orange County was delayed pending completion of discussions on the final disposition of the Greene Tract which is also located in the Northwest Area.

Though not an area considered at the April 2001 public hearing, the Chapel Hill Southern Triangle Transition Area was also affected by the new comprehensive plan. This area is bordered by Chatham County to the south, Old Lystra Road to the east, and the Chapel Hill extraterritorial planning jurisdiction (ETJ) and US 15-501 to the north. Adoption of the new Chapel Hill

Comprehensive Plan in May, 2000 resulted in a northward shift of the Urban Service Boundary away from the Southern Triangle Transition Area. The report will review the land use, zoning, and jurisdictional context for this area.

FINANCIAL IMPACT: None.

RECOMMENDATION(S): Receive as information and direct staff as to preferred course of action.

MEMORANDUM

TO: Orange County Board of Commissioners
Chapel Hill Town Council
Carrboro Board of Aldermen

FROM: Craig Benedict, Orange County Planning Director
Roger Waldon, Chapel Hill Planning Director
Roy Williford, Carrboro Planning Director

CC: John Link, Orange County Manager
W. Calvin Horton, Chapel Hill Town Manager
Robert Morgan, Carrboro Town Manager

DATE: April 17, 2002

SUBJECT: Chapel Hill Comprehensive Plan Amendments for the Northwest Area

The purpose of this memorandum is to report on progress toward adoption by Orange County of the following amendments to the Joint Planning Land Use Plan and Map, presented at the April 2001 Joint Planning Area Public Hearing:

- Changing the designation of the Greene Tract from "Landfill Pending Further Study" to "Housing/Open Space";
- Changing the designation of land south of Eubanks Road from "Open Space" to "Low Residential";
- Changing the designation of land north of Eubanks Road, between the existing landfill and Millhouse Road, from "Mixed Use, Office Emphasis" to "Open Space"; and
- Changing the designation of parcels between Millhouse Road and Interstate 40 from "Mixed Use, Office Emphasis" to "Rural Residential."

The purpose of these amendments is to promote consistency with the Chapel Hill 2000 Comprehensive Plan.

Background

In July 1998, the Chapel Hill Town Council initiated a revision of the Town's 1989 Comprehensive Plan and 1986 Land Use Plan. A Work Group was appointed in the fall of 1998 with a charge to develop a draft plan to present to the Town Council in September 1999. The preliminary target was to have a new Comprehensive Plan adopted by the end of November 1999. The 31-member Work Group conducted its work through a combination of public symposia, public meetings, direction to staff and consultant, review, discussion, and editing of materials prepared by staff and consultant, and a final vote to send the draft plan on to the Town Council for consideration.

The Council received the report at the end of September 1999. The Council held two Public Hearings and conducted three work sessions at which it discussed the draft materials and heard public comment. The Council also discussed a revised timeline for consideration of the draft plans at its January 14, 2000 Planning Session. At that time, the Council set target goals of adopting the Downtown Small Area Plan by April 1, 2000, and adopting the full Comprehensive Plan (which includes a new Land Use Plan) by May 1, 2000.

At the end of the Council's February 7, 2000 work session the Council directed the staff and consultant to make adjustments to the draft plan in response to the public comments and Council statements. The Council asked that this revised plan come to the Council at its March 27, 2000 meeting for possible adoption. On March 27 the Council decided to hold three additional public information meetings at locations around Chapel Hill on the draft Plan in response to a citizen petition. The Town Council subsequently adopted the Comprehensive Plan on May 8, 2000.

On April 11, 2001, a joint public hearing was held to receive public comment on the proposed amendments. A resolution approving the amendments was forwarded to the governing bodies of Orange County, the Town of Carrboro, and the Town of Chapel Hill for approval.

Recent Actions

On May 7, 2001, the Chapel Hill Town Council adopted Resolution 2001-05-07/R-16b (see Attachment 1), amending the Joint Planning Land Use Plan and Map, according to the map attached to the resolution. The resolution would designate the Greene Tract as Housing/Open Space and leave the Neville Tract as Open Space as shown on the 1986 Land Use Plan. This resolution was adopted prior to the convening of the inter-jurisdictional Greene Tract Work Group (see below, "Greene Tract Process").

The Carrboro Board of Aldermen took action on the amendments in June, 2001, but the Orange County Board of Commissioners have not acted on the resolution to amend the Joint Planning Land Use Plan and Map. All three jurisdictions are participating in a joint Work Group concerning the disposition of the Greene Tract, as noted below.

Greene Tract Process

In 1984, the three governments of Orange County, Carrboro, and Chapel Hill acquired the 169 acre Greene Tract. In 2000, 60 acres of this property was deeded to Orange County under the provisions of the 1999 interlocal "Agreement for Solid Waste Management." This Agreement also gave the County and Towns two years following the effective date of the agreement to determine the ultimate use or disposition of the remaining 109 acres of the Greene Tract. The end date of the bargaining period as defined in the Agreement is April 17, 2002.

In 2001, the three governments adopted a process to determine the ultimate use or disposition of the remaining 109 acres. A joint work group of two elected officials from each jurisdiction was has met since October, 2001. The Work Group held a public forum on a proposal to consider three basic uses of affordable housing, open space, and recreation on November 15, 2001. In

November and December, 2001, the governing bodies each adopted resolutions endorsing the three basic uses, with some variations in emphasis and issues noted. In February, 2002, the Work Group began reviewing options for a preliminary concept plan based on a site analysis. On March 21, 2002, the Work Group adopted a draft resolution in concept. The Work Group:

- Reached substantial agreement on a concept plan showing approximately 78 acres earmarked for open space protected by a conservation easement and approximately 15 acres for affordable housing;
- Has not yet reached agreement on about 11 acres regarding the designation;
- Forwarded the proposal to the three governing boards and recommended they accept it as an interim progress report;
- Recommended the Board of County Commissioners protect its 60 acre portion by executing a conservation easement also;
- Recommended the Chapel Hill Town Council consider initiating a small area plan for the Purefoy Road area; and
- Supported renaming the property to recognize the significance of the area as the headwaters for three important streams (Bolin, Old Field Creek, and Booker Creek).

A Work Group draft resolution requests that each governing board agree to extend the April 17, 2002 end of the bargaining period in the Interlocal Agreement 60 days to permit finalizing a concept plan. The Group asked the Managers to arrange for a topographic survey of the Purefoy Road area.

Options for Proceeding

The Planning staffs of Chapel Hill, Carrboro, and Orange County note the following options for proceeding toward adoption of the proposed amendments to the Joint Planning Land Use Plan and Map:

1. Adopt the proposed amendments to the Joint Planning Land Use Plan and Map as adopted by the Chapel Hill Town Council on May 7, 2001; or
2. Adopt the proposed amendments to the Joint Planning Land Use Plan and Map as adopted by the Chapel Hill Town Council on May 7, 2001, but leave the designation of the Greene Tract unchanged from its 1986 Land Use Plan designation ("Future Landfill, Pending Future Study") until a final use is determined for the Greene Tract; or
3. Adopt the proposed amendments to the Joint Planning Land Use Plan and Map as adopted by the Chapel Hill Town Council on May 7, 2001, but designate three uses (housing, open space, and recreation) for the Greene Tract, as adopted by the three governing bodies in November and December of 2001; or
4. Postpone adoption of the proposed amendments to the Joint Planning Land Use Plan and Map until the Greene Tract Work Group finalized recommendations for a concept plan on the Greene Tract.

The Joint Planning Agreement requires all three governing bodies to adopt the same resolution in order to amend the Joint Planning Land Use Plan and Map. Options 2, 3 and 4 would require a new resolution be drafted and forwarded to each jurisdiction for review by each jurisdiction's Planning Board and approval by each jurisdiction's governing body.

MEMORANDUM

TO: Orange County Board of Commissioners
Carrboro Board of Aldermen
Chapel Hill Town Council

FROM: Craig Benedict, Orange County Planning Director
Roy Williford, Carrboro Planning Director
Roger Waldon, Chapel Hill Planning Director

CC: John Link, Orange County Manager
W. Calvin Horton, Chapel Hill Town Manager
Robert Morgan, Carrboro Town Manager

SUBJECT: Southern Portion of Chapel Hill Transition Area Within Joint
Planning Area

DATE: April 17, 2002

This item appears on tonight's Joint Public Hearing agenda at the request of the Orange County Board of Commissioners. This is a discussion item.

BACKGROUND

On May 8, 2000, the Chapel Hill Town Council adopted a new Comprehensive Plan for Chapel Hill, along with an accompanying Land Use Plan. The geographic coverage of the Land Use Plan includes all areas within Chapel Hill's Town Limits, within Chapel Hill's Extraterritorial Planning Area, and within the Chapel Hill Transition Area designated on documents related to the Joint Planning Agreement.

The new Chapel Hill Land Use Plan proposed changes in land use designations in several areas. For those areas that changed within the Town Limits, or within the Extraterritorial Planning Area, no further approvals by any jurisdiction were needed. For changes in land use designations within the Chapel Hill Transition Area in the Joint Planning Area, concurrence is needed by the Carrboro Board of Aldermen and the Orange County Board of Commissioners in order to become fully effective. The mechanism to accomplish this is to amend the Joint Planning Area Land Use Plan.

The changes in land use designation that have been so proposed by Chapel Hill are on the northwest side of Town, in the Eubanks Road area. These changes were considered at a Joint Public Hearing last year, and accompanying change to the Joint Planning Area Land Use Plan was approved by the Chapel Hill Town Council and the Carrboro Board of Aldermen following the hearing. The Board of Commissioners did not take final action on the proposed amendment, and a status report on that topic is on tonight's agenda for discussion.

A related action of the Chapel Hill Town Council on May 8, 2000, was to constrict Chapel Hill's Urban Services Boundary to the south of Chapel Hill's corporate limits. A map is attached (Map 1) that shows the new Urban Services Boundary in this area. Chapel Hill did not request an accompanying change to the Joint Planning Area Land Use Plan for the portion of this land that is within the Joint Planning Area, because no change in land use designation was proposed. A second map is attached (Map 2, Excerpt from the Joint Planning Area Land Use Plan) showing this area, and its land use designation as "Suburban Residential - Chapel Hill Transition Area." No change in that designation has been proposed. Zoning in this area is Residential-Low Density-1, requiring a one-acre minimum lot size.

DISCUSSION

No change to the Joint Planning Area Land Use Plan has yet been proposed for this area. We understand that the purpose of tonight's discussion is to clarify the status of this area, its land use designation and its zoning.

We note that while the concepts of Rural Buffer and Urban Services Area are related, they are not necessarily paired along a common boundary. In this case, for example, the Rural Buffer is a Joint Planning Area category, accompanied by County control over zoning and development. Land in the Joint Planning Area not designated Rural Buffer on the Joint Planning Area Land Use Plan is designated either Carrboro Transition or Chapel Hill Transition, where Orange County and either Carrboro or Chapel Hill share jurisdiction over zoning decisions and either Carrboro or Chapel Hill makes decisions on development applications. "Not within the Urban Services Boundary" is not synonymous with "Rural Buffer." For example, there are several areas within Chapel Hill's Extraterritorial Planning Area that are not within the Urban Services Boundary.

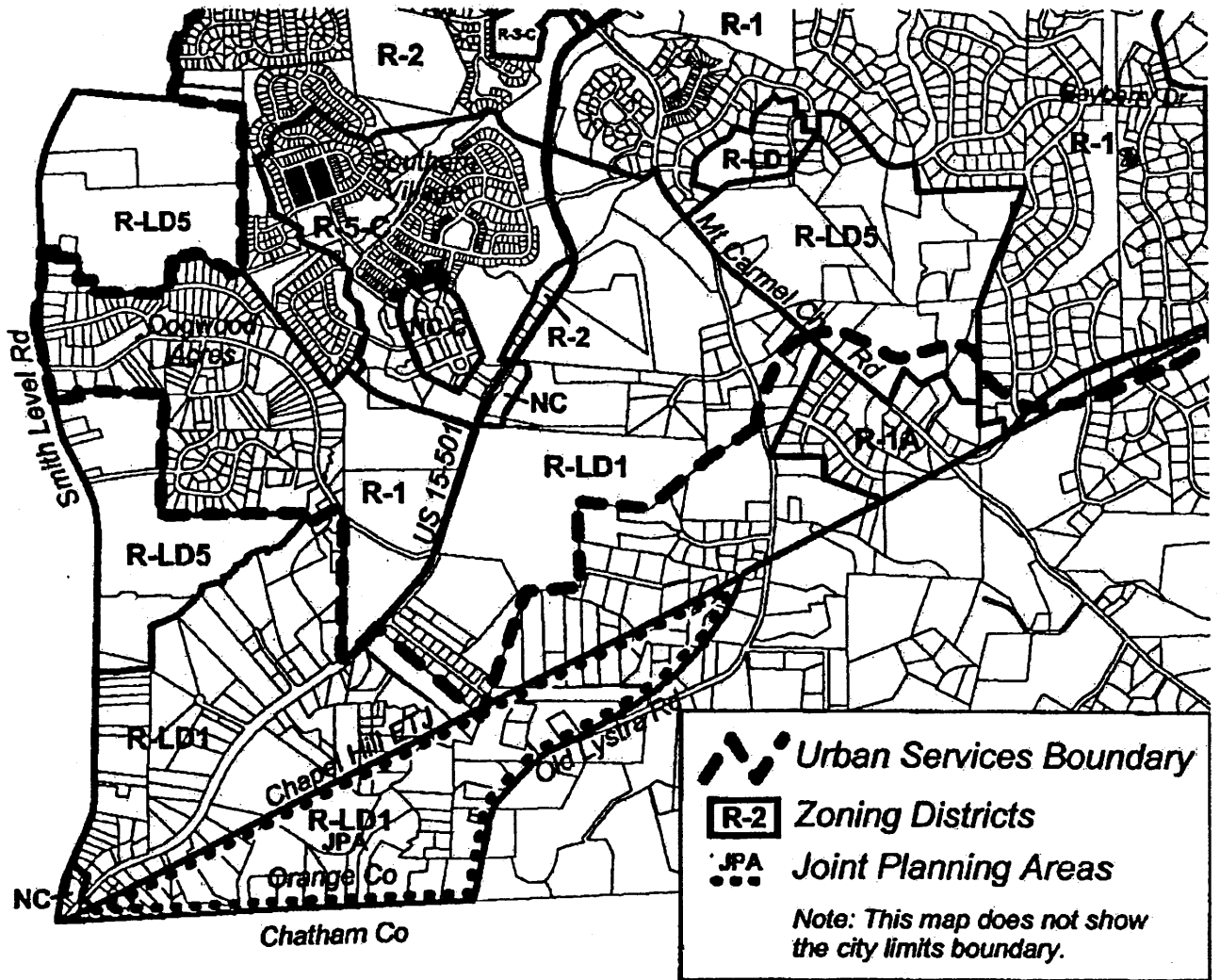
SUMMARY

A staff presentation tonight will review the land use, zoning, and jurisdictional context for an area south of Chapel Hill that is currently outside of Chapel Hill's Urban Services Boundary, but within Chapel Hill's Transition Area.

Attachments

1. Chapel Hill Zoning Map, showing Zoning Categories, Urban Services Boundary and Joint Planning Area Boundary for Southern Area
2. Joint Planning Area Land Use Plan, showing Joint Planning land use designations for Southern Area

Map 1: Excerpt from Chapel Hill Zoning Map







Map 2: Excerpt from Joint Planning Area Land Use Plan



LEGEND

TRANSITION

-  Resource Protection
-  Public/Private Open Space
- Suburban Residential**
 -  Chapel Hill Transition Area
 -  Carrboro Transition Area I
 -  Carrboro Transition Area II