

**A RESOLUTION ACCEPTING THE PRESENTATION ON THE ORANGE COUNTY UNIFIED
DEVELOPMENT ORDINANCE**

Draft Resolution No.59/2010-2011

WHEREAS, Orange County is developing a Unified Development Ordinance; and

WHEREAS, Orange County has sought broad involvement in the process of preparing the UDO and
whereas the Town of Chapel Hill has requested a presentation on this effort; and

WHEREAS, Orange County has offered to present the result of these efforts to the Board of Aldermen
and is seeking written comments by February 2nd;

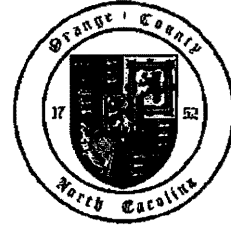
WHEREAS, the January 18 agenda has been identified as having time that could be scheduled for this
purpose.

NOW, THEREFORE, BE IT RESOLVED that the Board of Aldermen of the Town of Carrboro:

1. Accepts the Orange County staff presentation on the Unified Development Ordinance.

Manager's Office

ORANGE COUNTY
 200 South Cameron Street
 Post Office Box 8181
 Hillsborough, North Carolina 27278



December 20, 2010

Roger Stancil, Town Manager
 Town of Chapel Hill
 405 Martin Luther King, Jr. Blvd
 Chapel Hill, NC 27541-5705

Steve Stewart, Town Manager
 Town of Carrboro
 301 W. Main Street
 Carrboro, NC 27510

Robert Wilson, City Manager
 City of Mebane
 106 E. Washington St.
 Mebane, NC 27302

Eric Peterson, Town Manager
 Town of Hillsborough
 P.O. Box 429
 Hillsborough, NC 27278

Dear Sirs:

Orange County has been developing a Unified Development Ordinance (UDO), which compiles and reorganizes its various unincorporated land development codes. The existing 'freestanding' regulations of subdivision, zoning/watershed, erosion control/stormwater, environmental, economic development and floodplain are being collapsed into a better integrated and comprehensive format. Even though these regulations do not pertain to municipal jurisdiction or extra-territorial zoning jurisdiction (ETJ), we are offering a more in-depth explanation of the new UDO format and some Phase 1 changes that were made over a two year period of public, local government, elected official and advisory board outreach and input.

The intent of Phase 1 of the UDO was more of an organizational framework effort than substantive regulatory changes. Future ideas for amendments that involve permitted use and development process changes are being catalogued and held until future phases can be prioritized and focused.

One change noted in this phase that has drawn comment from people among local governments relates to our re-description and use of conditional districts. This zoning construct is employed in almost every municipality and has been authorized by State law for years. Without elaborating to a great extent, these zoning districts can be sited and approved with conditions as opposed to conventional general use zoning districts where only the general written standards of the zoning code can be applied. Planning staff has prepared some comparison tables and explanation prologue (see enclosed) that show that these renamed zoning tools (e.g. from planned development to conditional use) are very similar in application and remain linked to the county's comprehensive plan and joint planning area land use designations.

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Prompted by a letter from the Town of Chapel Hill, the Orange County Board of Commissioners thought it prudent to offer an additional presentation, if requested, from our partner local governments. Your local planning staffs have familiarity with this UDO process and many of the aspects therein and our staff can work with them, accordingly, to prepare information or a presentation that may be helpful.

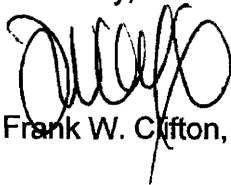
Our planning website at <http://www.co.orange.nc.us/planning/UDO.asp> has a UDO overview as well as a Question & Answer Section. If you would like a presentation by Orange County staff please let us know by January 5, 2011. Otherwise, written comments are due by February 2, 2011 by 5:00 pm.

Please feel free to contact the Orange County Planning Department, Craig N. Benedict, AICP, Planning Director, at 919-245-2585 for arrangements.

The County will also be holding a public outreach session on January 27, 2011 in Hillsborough as the county proceeds to an additional public hearing on February 28, 2011 and review and adoption on April 5, 2011.

We thank you in advance for your interest and participation.

Sincerely,



Frank W. Clifton, Jr., Orange County Manager

xc: Orange County Board of Commissioners
Craig N. Benedict, Planning Director

Attachments

Present Zoning Ordinance to UDO - Comparison Tables

Prologue

Attached are two charts comparing existing provisions of the Orange County Zoning Ordinance to zoning constructs proposed in the UDO.

The 'Comparison of Planned Development and Conditional Use District' shows that there are only limited differences between the proposed Conditional Use District system and the existing Planned Development construct. The changes proposed within the UDO were done largely to conform to North Carolina General Statutes and to clear up a number of ambiguities in the current Zoning Ordinance with regard to Planned Development.

The second chart compares the proposed Master Plan Development Conditional Zoning District (MPD-CZ) with the existing Planned Development-Mixed Use (PD-MU) district within the current Orange County Zoning Ordinance. MPD-CZ is one of three Conditional Zoning Districts proposed within the UDO. Again, the proposed terminology and construct is consistent with current North Carolina General Statutes. This conditional zoning district draws from many of the existing components of the Planned Development construct, largely the PD-MU program. A big difference between the proposed MPD-CZ and the existing PD-MU construct is that approval of the MPD-CZ is a legislative approval only. Changes to General Statutes in 2005 permitted the use of Conditional Zoning Districts and the approval of conditions with specific rezoning requests.

Overall, comparisons show the many similarities between the existing Planned Development provisions of the current Orange County Zoning Ordinance and the conditional use district and conditional zoning district constructs proposed within the UDO. The key differences between the existing provisions and the proposed constructs are based largely on changes to General Statutes instituted in 2005.

**Comparison of Planned Development and Conditional Use District
Orange County, North Carolina**

	Planned Development	Conditional Use District
Status	Current regulations; Orange County Zoning Ordinance	Proposed for inclusion in Unified Development Ordinance
Where Permitted	County-wide	County-wide
Relationship to Comprehensive Plan & JPA Land Use Plan	Yes.	Yes.
Linked to a General Use Zoning District (i.e. CC3, I-1, R-5)?	Yes. Subject to all standards of general use zoning district, including setbacks, height limits, and uses permitted.	Yes. Subject to all standards of general use zoning district, including setbacks, height limits, and uses permitted.
Uses Permitted	Use(s) requested limited to those uses permitted in linked general use zoning district.	Use(s) requested limited to those uses permitted in linked general use zoning district. Some Exclusions.
Specific Use(s) Approved?	Yes. Only those uses specifically approved with PD shall be permitted.	Yes. Only those uses specifically approved with CU District shall be permitted.
Waivers	Waivers to development standards (not uses) must be specifically approved by the BOCC.	Waivers to development standards (not uses) must be specifically approved by the BOCC.
Who Approves Application	BOCC	BOCC
Approvals Required	Rezoning (Legislative) AND Class A SUP (Quasi-Judicial); concurrent	Rezoning (Legislative) AND Class A SUP (Quasi-Judicial); concurrent
Conditions of Approval	Allowable if agreed to by County AND applicant	Allowable if agreed to by County AND applicant
Required Plan Submittal	1. PD requires submittal of "concept plan" 2. SUP required for all Planned Developments	Site plan approved by BOCC with rezoning & SUP
Planning Board Review and Recommendation?	Yes.	Yes.
Time Frame	Construction to begin within 12 months of date of approval	Construction to begin within 12 months of date of approval
Specified in State Statute	No.	Yes.

**Comparison of Planned Development - Mixed Use (PD-MU) and Master Plan Development - Conditional Zoning District (MPD-CZ)
Orange County, North Carolina**

	Planned Development - Mixed Use PD - MU	Master Plan Development - Conditional Zoning District MPD - CZ
Status	Current regulations; Orange County Zoning Ordinance	Proposed for inclusion in Unified Development Ordinance
Where Permitted	County-wide	County-wide
Relationship to Comprehensive Plan & JPA Land Use Plan	Yes.	Yes.
Linked to a General Use Zoning District (i.e. CC3, I-1, R-5)?	Yes. Subject to all standards of general use zoning district, including setbacks, height limits, and uses permitted.	No. Separate zoning district listed on the Table of Permitted Uses.
Uses Permitted	Use(s) requested limited to those uses permitted in linked general use residential zoning district and the Community Commercial (CC-3) zoning district.	Use(s) requested limited to those uses listed for MPD-CZ on the Table of Permitted Uses.
Specific Use(s) Approved?	Yes. Only those uses specifically approved with PD shall be permitted.	Yes. Only those uses specifically approved with the MPD-CZ shall be permitted.
Waivers	Waivers to development standards (not uses) must be specifically approved by the BOCC.	1. Specific standards approved with the MPD-CZ Master Plan by the BOCC. 2. Limited changes may be approved by the Planning Director; parameters for administrative modifications clearly articulated in proposed UDO.
Who Approves Application	BOCC	BOCC
Approvals Required	Rezoning (Legislative) AND Class A SUP (Quasi-Judicial) for conditions; concurrent	Rezoning (Legislative) with overall project conditions
Conditions of Approval	Allowable if agreed to by County AND applicant (Overall Project)	Allowable if agreed to by County AND applicant (Overall Project)
Required Plan Submittal	1. PD requires submittal of "concept plan" 2. SUP required for all Planned Developments	1. Master Plan approved by BOCC with rezoning 2. Site plans for each "pod" shown on the Master Plan shall be approved administratively and must be consistent with BOCC approved Master Plan. 3. Deviations from approved Master Plan require amendment to Master Plan and must be approved by the BOCC.
Planning Board Review and Recommendation?	Yes.	Yes.
Time Frame	Construction to begin within 12 months of date of approval	Established with approval of Master Plan
Specified in State Statute	No.	Yes.

Unified Development Ordinance Questions & Answers

1. What is the Unified Development Ordinance?

The Unified Development Ordinance (UDO) is a document that combines all regulations pertaining to land development into one integrated document. The following existing Orange County Ordinances are included in the UDO and will be repealed as part of the UDO adoption process: Zoning Ordinance, Subdivision Regulations, Environmental Impact Ordinance, Soil Erosion and Sedimentation Control ordinance, Stormwater Ordinance, and Economic Development Districts Design Manual (technically part of the Zoning Ordinance but available as a separate document).

The UDO primarily incorporates existing text from the existing regulations. Changes from existing text are noted via strikethrough text, color coded text, and footnotes. Additionally, a Comparative Table that lists the sections of all existing incorporated regulations and in which section of the UDO the text can be found is available.

2. Are there changes from existing regulations in the UDO?

Yes, the Board of County Commissioners (BOCC) authorized specific changes to existing regulation as part of this phase of the UDO. The authorized changes are to Landscaping, Buffers, and Tree Protection; Signage; Parking, Loading, and Circulation; and Stream Buffers. Additionally, the BOCC authorized creation of Conditional Zoning Districts and a Conditional Use District.

Staff is also suggesting that the provisions of the existing Stormwater Ordinance apply county-wide. Currently, the Stormwater Ordinance applies only in the Neuse River Basin. However, because of upcoming changes to the Jordan Lake Rules (Jordan Lake is located in the Cape Fear River Basin), staff has written the UDO's Stormwater provisions to apply county-wide so that an additional text revision should not be necessary to accommodate the anticipated outcome of the Jordan Lake Rules.

3. What are some of the more significant changes in the regulations?

A procedure for the **vacation of recorded plats and road abandonment** has been added to the UDO (Section 2.17). There is not a process in the existing regulations and this has caused issues in the past with neither staff nor applicants knowing what should be done to vacate a plat or abandon a road.

The **Landscaping, Buffers, and Tree Protection** regulations (Section 6.8) have been re-written and re-organized to be more user-friendly. As proposed, the new standards are more clearly articulated and will include better graphics for ease of use. Changes from the existing regulations include, but are not limited to, specific planting requirements for each buffer type and the ability to receive credit for existing vegetation preserved within designated buffer areas. In addition, the regulations incorporate the landscape and tree preservation requirements from the existing Economic Development Design Manual, currently a separate document. As the proposed section is a complete re-work of the existing landscaping, buffers and tree preservation regulations currently found in the Zoning Ordinance (Article 12) and Subdivision Regulations (Section IV-B-8

and Appendix C) the section is not shown in strike-through format in the UDO (i.e., the entire section is shown as new text, changes from existing regulations are not shown).

Signs (Section 6.12) is a complete overhaul of the existing regulations currently included in the Zoning Ordinance (Article 9). Over the years, as the current regulations have been administered, staff has come to realize that the existing sign regulations could be clearer. As proposed in the UDO, the standards for each type of sign are clearly specified, including area, location and number of signs permitted for each site. In addition, the regulations incorporate the sign standards from the existing Economic Development District Design Manual. Moreover, numerous definitions pertaining to signs have been added to Article 10 (Definitions) of the UDO for further clarity and to limit issues experienced currently with the existing regulations.

Parking, Loading, and Circulation (Section 6.9) is a re-work of the existing Off-Street Parking and Loading standards currently contained in Article 10 of the Zoning Ordinance. Changes to existing regulations include specific design requirements for on-site parking and loading areas complete with graphics, allowances for reduced parking for approved shared parking areas, and criteria for flexible parking requirements for renovations and adaptive re-use projects. Overall, the proposed regulations are easier to understand and provide opportunity for more flexibility for some new and redevelopment projects.

The UDO includes limited modifications to the existing **Stream Buffer** regulations with proposed additions to the uses permitted within designated stream buffers, such as driveways, hiking trails, and utilities, as well as the addition of a new category of uses- 'uses permitted with mitigation' (see Section 6.13.6). The regulations remain consistent with State stream buffer requirements. No other changes to the current stream buffer regulations are proposed.

The existing **Planned Development** zoning districts are proposed to be replaced with Conditional Zoning districts and a Conditional Use district. (See related questions/answers about these districts).

4. Can you give some examples of inconsistencies in existing regulations that are being fixed by the UDO?

Following are examples of inconsistencies in existing regulations that are being fixed in the UDO. Please note that all changes from existing text are "tracked" in the UDO so readers can easily distinguish changes in text.

- Deletion of the term "Zoning Officer" and using "Planning Director" instead. There is not a staff person with the job title of "Zoning Officer," nor has there been one.
- The definition for "Subdivision" contained language that was inconsistent with State Statutes.
- Phasing of Subdivisions – the existing Subdivision Regulations do not contain definitive language concerning the ability to phase subdivisions and the requirements to do so. The existing language is somewhat conflicting and requirements are scattered throughout the text. Section 7.3 of the UDO places the requirements in one location and more clearly states the requirements.
- The definition for "Lot of Record" did not contain enough information for staff to effectively and consistently interpret and enforce regulations.

- The existing "Applicability" section of the Zoning Ordinance did not make reference to the Joint Planning Area (JPA) or other similar agreements recognized and enforced by the County. This created an inherent conflict and has been fixed in the UDO.
- There is conflict in the existing language regarding Notification of Board of Adjustment decisions. These conflicts have been fixed in the UDO.
- The existing regulations pertaining to Signs contained contradictions regarding the maximum size of freestanding signs. The contradictory language has been resolved in the UDO. In regards to Permitted or Prohibited Signs, the existing regulations contained language spread throughout the Article making it difficult to determine if a sign is allowed. The UDO groups all permitted signs into one section and all prohibited signs into a separate section. There is also now a section on Exempt Signs to make it clear that some types of signs are not subject to the regulations.
- Existing language in the Zoning Ordinance referred to child care facilities in Commercial and Industrial Districts but these types of facilities were not allowed in Industrial districts, per the Permitted Use Table.
- In regards to Rural Guest Establishments, parking standards in Article 8 of the Zoning Ordinance conflicted with parking standards contained in Article 10. Additionally, standards for Bed & Breakfast (B&B) facilities were included in the section regarding Special Use Permits which was not applicable since a Special Use Permit is not required for a B&B.

5. What happened to the Planned Development zoning districts?

The Planned Development Districts are to be replaced with Conditional Zoning Districts and the Conditional Use District. The review/approval process for these new zoning districts is very similar to the existing Planned Development District process. The most salient difference between these new districts and the current Planned Development districts is that conditions can now be agreed to by the County and Applicant to address off-site impacts of development. This is a result of changes in State Statutes in 2005 that specifically allowed local governments to adopt Conditional Zoning and specifically addressed the origin and nature of conditions that may be imposed. Prior to 2005, applying conditions to address off-site impacts was not allowed. An example of addressing an off-site impact is having the Developer provide a turn-lane into the development to ease traffic congestion concerns.

6. Please explain the Conditional Zoning Districts.

Conditional Zoning Districts are specific individual districts with a specific set of permitted uses for each district, as depicted on the Permitted Use Table. The difference between the conditional zoning districts and the "general" zoning districts listed in the Ordinance is that with a conditional zoning district, the applicant is requesting a rezoning for a specific use or range of uses and mutually agreed upon conditions can be placed on the rezoning approval. State Statutes require that conditions or site specific standards imposed be limited to those that address the conformance of the development and use of the site to adopted ordinances and plans and those that address the impacts reasonably expected to be generated from the development or use of the site.

Prior to 2005, which is when State Statutes pertaining to conditional zoning districts were changed, this zoning technique was available only to two local governments in the State because they had received local legislation approval to use it. One of the advantages of

conditional zoning districts is that the process provides reasonable certainty as to what will be developed on a site. Because conditions cannot be attached to "general" district rezoning, there is the possibility that any use allowed in the general district could be built on the site.

The decision to rezone a property to a conditional zoning district is legislative which means that the final decision-making board (i.e., the Board of County Commissioners) has more discretion over whether to approve a rezoning request than a quasi-judicial decision which must be based upon competent, substantial evidence presented at public hearing.

Three conditional zoning districts are proposed in this phase of the UDO:

- MHP-CZ (Mobile Home Park district, which replaces the Planned Development Mobile Home Park District)
- PID-CZ (Public Interest District, which replaces the existing PID general zoning district)
- MPD-CZ (Master Plan Development district, which replaces many components of the existing PD-MU [Planned Development Mixed Use] district)

While the Conditional Zoning District process uses many of the components of the existing Planned Development (PD) process, an exception is that a Special Use Permit (SUP) is also required under the existing PD process but a SUP would not be required under the conditional zoning district process.

7. Please explain the Conditional Use District.

The Conditional Use district and corresponding review/approval process is very similar to the existing Planned Development process. Landowners can apply for a rezoning to a Conditional Use district for any use contained in the Permitted Use Table, except for those uses specifically excluded from consideration as a Conditional Use, and the application must state the specific use(s) being requested. In addition to the rezoning, a Class A Special Use Permit (SUP), which is processed concurrently, is also required. Because the rezoning decision is legislative and the SUP decision is quasi-judicial, the decision process for a Conditional Use district is more complicated than a Conditional Zoning district, but it is the same process as the existing Planned Development review/approval process.

The Conditional Use district is linked to a general zoning district, which is how the existing Planned Development process works, and any deviation from the linked general zoning district standards must be approved by the Board of County Commissioners as part of the review/approval process.

Like Conditional Zoning districts, mutually agreed upon conditions can be placed on the rezoning approval. State Statutes require that conditions or site specific standards imposed be limited to those that address the conformance of the development and use of the site to adopted ordinances and plans and those that address the impacts reasonably expected to be generated from the development or use of the site.

Some of the positives of the Conditional Use technique is that it permits some development flexibility while limiting impacts to surrounding properties and the process

allows all interested people to know what uses(s) are permitted on a site and generally what the development will look like.

8. Please explain the MPD-CZ (Master Plan Development Conditional Zoning District).

The MPD-CZ is a proposed conditional zoning district that replaces many of the components of the existing PD-MU (Planned Development Mixed Use) district. This district is intended primarily for mixed use developments although single use developments may also be considered. The MPD-CZ rezoning process requires a detailed Master Plan rather than a site plan. The Master Plan would be approved by the Board of County Commissioners (following the normal rezoning process) and future site plans for each development area within the overall development would be reviewed and approved by staff. Site plans have to be consistent with the approved Master Plan but certain adjustments are permitted (see Section 6.7.2 of the UDO for the list of permitted adjustments).

One of the positives of this conditional zoning district is that it provides reasonable certainty regarding uses on the site but permits some flexibility to address changing market conditions.

9. Is the existing development review process being changed?

No. The existing processes are substantially intact. The changes that are demarcated in Article 2 (Procedures) are primarily to be clearer about existing processes and requirements because some of the existing regulations were not as detailed or clear as they could be. This has been especially true of Board of Adjustment proceedings and the applications upon which the Board of Adjustment acts (Class B Special Use Permits and Variances); therefore, there is quite a bit of added text regarding these procedures.

In one case, the review process is becoming simpler. Zoning Compliance Permits for single-family residential uses outside of the University Lake Watershed would now be required to submit only a Plot Plan rather than a more detailed Site Plan.

10. I want to subdivide my land to allow my children to build homes here in Orange County. How does the Unified Development Ordinance (UDO) affect my plans?

The UDO does not change the existing subdivision processes. In the case of Minor subdivisions (those creating five or fewer lots), language has been added to the UDO to be clearer about the application requirements and the review process (Section 2.14).

In regards to Exempt subdivisions (those creating lots greater than 10 acres in size), language has been added to the UDO to more clearly articulate the procedure (Section 2.13).

The Major subdivision process also has not changed. Small changes have been suggested to the existing text to be clearer about actual practices.

- 11. There has been talk lately about making Orange County more "business-friendly" in these difficult economic times. Are there any changes or additions to previous ordinances in the UDO that compromise a citizen's or a community's right to participate in development issues or lessen their right to understand and affect development in their neighborhoods?**

No. Review/approval processes have not been suggested for changes. Citizens will have the same level of participation as they currently have.

- 12. Will the UDO result in changes in the location of residential, commercial, industrial, and agricultural areas?**

Changes in these areas would not be a result of the UDO. The County's Land Use Plan, contained in the Comprehensive Plan, designates areas of the county for broad categories of uses. The Land Use Plan is not being amended as part of the UDO process. The Conditional Zoning Districts and Conditional Use District could allow changes but this is no different than could now potentially be allowed under the Planned Development Districts.

- 13. Will the UDO allow industries or developments to be located in areas where they are not currently permitted?**

No. As stated in #12, the County's Land Use Plan designates areas of the county for categories of uses. The existing Planned Development districts, which are to be replaced with Conditional Zoning and Conditional Use Districts, can allow for a variety of developments that are not permitted-by-right in a specific zoning district and/or land use plan category, subject to the review and approval processes contained in the Ordinance.

- 14. I'm committed to protecting the environment and wetlands in Orange County. How does the UDO affect these issues?**

The only changes being contemplated in the UDO that affect these issues are the proposed changes to stream buffer regulations. As stated in #3, some uses not currently permitted in stream buffers would be allowed or would be allowed with mitigation. Examples of the uses proposed to be allowed include greenways and/or hiking trails, wetland restoration projects, and public water and sewer lines (with limitations). Examples of uses proposed to be allowed with mitigation include docks, piers, and boat ramps; trail crossings with bridges; and new storm water ponds. These uses are in conformance with State regulations pertaining to stream buffers and the proposed County regulations are still more restrictive than the State's regulations.

- 15. Is the County imposing additional costs on property owners who want to subdivide or develop their properties through the UDO?**

The expected costs for subdividing and/or developing property would not change as a result of the UDO. In the case of Minor Subdivisions (those creating five or fewer lots), a Concept Plan will now be required (it is "advisable" in the current Subdivision Regulations). Over the years, Staff has found that some applicants who chose not to submit Concept Plans have incurred significant expenses (which could have been avoided by submitting a simple Concept Plan) when the submitted Final Plat did not conform to requirements.

16. How can citizens express their views on the benefits or downsides of the proposed UDO?

Citizens can attend the Public Hearing on Monday, November 22, 2010 to express their views on the proposed UDO. The Public Hearing begins at 7:00 p.m. and will be held at the Department of Social Services, Hillsborough Commons, 113 Mayo St., Hillsborough, North Carolina.

Citizens not able to attend the public hearing can submit written comments to the Planning Department prior to the public hearing and those comments will be entered into the formal record.

Additionally, an open-house style public information meeting will be held on Wednesday, November 17, 2010 to provide citizens with the opportunity to speak with Planning staff members one-on-one about the UDO. The meeting will be held from 5:30 to 7:00 p.m. in the County Office Building at 131 West Margaret Lane, Hillsborough, NC in the Lower Level Conference Room.

17. How can citizens suggest topics areas for consideration for future changes to the UDO?

County staff has been taking note over the years, especially during the development of the 2030 Comprehensive Plan (adopted in November 2008), of topic areas which should be considered for changes. A list of topic areas for potential future changes will be available as part of the Public Hearing materials for the UDO. Citizens are encouraged to provide additional topic areas for future changes in writing to the Planning Department at or prior to the November 22, 2010 public hearing. Part of the County's consultant's work is to make recommendations on future changes to the UDO and the general cadence of such changes.