

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

6

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:

8

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

Excerpt from Joint Planning Agreement

9

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

⑩
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

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

The Water and Sewer Management, Planning and Boundary Agreement (hereinafter WSMPBA) is incorporated into this agreement by reference. A copy of the WSMPBA is Exhibit B to this agreement. Termination of the WSMPBA does not terminate this agreement. The withdrawal by a party from the WSMPBA does not constitute withdrawal from this agreement. Termination of this agreement or withdrawal from this agreement can only be accomplished as provided in this agreement.

Water and Sewer Management Planning and Boundary Agreement

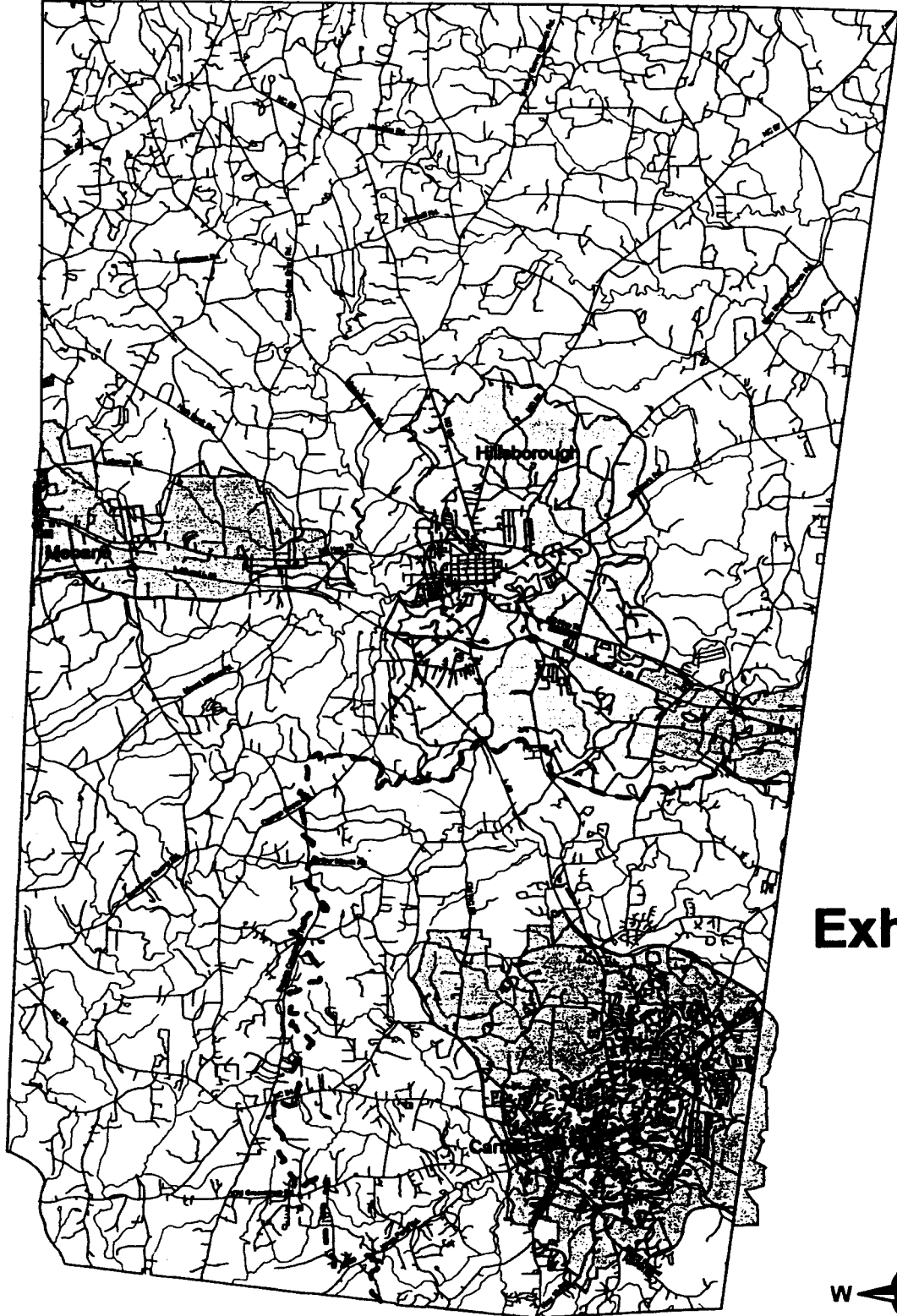
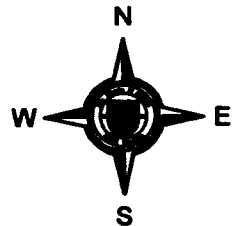


Exhibit B



County of Orange
 Planning and Inspections Department
 Revised Map Prepared by Carole Whitfield
 11/14/01
 Original Map Prepared by Beth McFarland
 04/17/97

Legend

Water and Sewer Boundaries

-  Hillborough Primary Service Area
-  OWASA Long-Term Intersect Area
-  Orange County Primary Service Area
-  OWASA Primary Service Area
-  Orange County Long-Term Intersect Area
-  Flood Buffer Boundary

