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**Sent:** Sunday, December 10, 2023 9:55 AM  
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**Subject:** RE: Wetland Code  
**Importance:** High

Good Morning Commissioner,

I've provided some responses in red to Ms. Betts' questions below:

LB: The stakeholder groups and boards that made recommendations for approval were reviewing a document that was 30 pages long. The final document is 52 pages and was released on December 1st. I do not want to hold up the ordinance. However, this is a pattern with staff. Perhaps highlighting changes on each new revision would at least shorten our time to figure out what changes were made.

EPD: A copy of the draft code was made available to the public in September, and again with a new version in early November, and again with the latest version dated December 1<sup>st</sup> (Ms. Betts was on the distribution list at the time). The code is as concise as we could make it, while still providing enough language to make our criteria and processes clear, which was one of the primary goals of the update. Note that the "Whereas" clauses at the beginning of the ordinance added to the length of the code, which were not in the September 15th draft that was presented to the SAB at their October 26th meeting. Additionally, the margins were significantly expanded in the final December 1st version, which creates the appearance of a much longer code. However, it has not actually changed much in length since September. I've attached the September and the final December versions for reference. Further, a companion table was created that succinctly summarizes all of the proposed changes, which has also been made available to the public with every code version. Strikethrough of the existing adopted code and underline of the latest additional language is the standard methodology for processing changes to a working draft of a code. I've copied in Georgiana if she wants to add to my understanding.

LB: The ordinance's purpose is to align with the Orange County Comprehensive Plan 2010-30, updating the Orange Code, and then goes on to list areas of environmentally sensitive lands at that time. And states, "Orange County is currently undertaking a revision to its comprehensive plan with "Vision 2050 Comprehensive Plan" to provide an updated roadmap for future growth and to ensure the continued preservation of natural resources in light of increasing development pressures and as urban expansion continues;"

EPD: The ordinance's purpose is stated in line 14, which is the protection of Orange County's natural resources. There is not a reference to Orange Code in the Ordinance.

LB: The Vision 2050 Comp Plan includes Single Creek [sic] with specific criteria as a special protected area. It is left out of this ordinance purposely per staff because they need additional

studies to hold up against a legal challenge. In my opinion, it should be listed if this is the code change that aligns with Vision 2050

EPD: Line 21 references that the SPAs listed in Lines 23-24 have their own established Articles of code. Since we are not yet ready to adopt new articles for Shingle Creek and the St. Johns River, it wouldn't be prudent to list them at this time in Article X. Further, the OCAO advised a study and adoption into the Comp Plan was the first step for establishing the SPAs.

LB: Additionally, in the ordinance, states the following, Sec. 15-365. Repeal of inconsistent ordinances or policies. All ordinances, part of ordinances, or policies or elements of adopted comprehensive plans or parts thereof in conflict herewith are repealed to the extent of the inconsistency and shall be otherwise considered to be amended to conform to the purposes and declared policies of this article. Since Shingle Creek is not listed as a protected area in this ordinance, is the section in the 2050 vision on Shingle Creek repealed or inconsistent? Staff have told me it will be protected in a year from now under a special overlay after they have the studies they need.

EPD: This question was asked at the SAB meeting, and the OCAO provided an answer at the meeting. I'll defer to Georgiana for a more precise response, but my understanding is that this is standard legal language. Ms. Betts has been provided this information on at least two occasions but is not willing to accept the County's legal response.

LB: I am also concerned about the modifier for Public benefit, which is described as "shall mean a development or activity that provides a positive impact and benefit to the general public, such as mass transportation, public facilities or improvements, or water, sewer, electric and other types of public utilities" That is so vague and considering future climate impacts have not been studied, under no circumstances should affordable housing be considered a public benefit for an incentive in an area that is likely to flood.

EPD: We would respectfully disagree that the definition of Public Benefit is vague. We have listed very specific types of projects that would qualify as "Public Benefit." Affordable housing is not referenced anywhere in the new code. After meeting with the SAB and hearing their reaction to the modifier, it was removed.

LB: Lastly, it scares me that staff is not including future climate assessments in most of the planning process.

EPD: Impacts from climate change have been addressed in multiple facets of this ordinance update. Protecting wetlands from climate change was included in the assessment that established the 100-foot minimum buffer. Fifteen studies were incorporated in the buffer analysis related to temperature and microclimate regulation, the majority of which recommended buffers between 20-100 feet. Additionally, a main objective of the ordinance is to enhance protection and preservation of wetlands in Orange County, which in turn will provide increased protection for the public against climate change. Ms. Betts was provided this

information when she previously asked staff how the proposed code takes into account climate change.

Finally, I copied Ms. Marge Holt as she and I (Liz) spoke about the referenced topic as well as the proposed upland buffer.

Respectfully Submitted,

EPD