

Contact: Laura Streitfeld (919) 593-5411
info@preserveruralorange.org

FOR IMMEDIATE RELEASE:

CITIZENS APPEAL COUNTY APPROVAL OF UNC ANIMAL RESEARCH FACILITY SITE PLAN

Orange County, NC March 5, 2012—Last week, Bingham Township resident Walt Lobotsky submitted an appeal to the Orange County Board of Adjustment, co-signed by the citizen nonprofit Preserve Rural Orange (PRO). Lobotsky and PRO are appealing the Planning Department's February 1, 2012 approval of a site plan for the University of North Carolina's Animal Research Facility. Lobotsky's property is adjacent to the 56-acre UNC property in southwest Orange County where a new wastewater system and expanded spray fields are planned to replace an improperly built system that was shut down after series of illegal animal wastewater spills and equipment failures occurred in 2009 and 2010. In the appeal, Lobotsky and PRO maintain that Orange County ordinances require the UNC facility to apply for a Special Use Permit because its wastewater system is designed to handle a capacity greater than 3,000 gallons per day.

Lobotsky and PRO are asking the Board of Adjustment to uphold county Planning staff's April 2010 determination requiring UNC to apply for a Class A Special Use Permit, a public process in which citizens may comment on proposed developments in hearings held by the Planning Board and Board of County Commissioners (BOCC). County Planning staff later reversed the determination in November of 2010 in response to communications from University attorneys and officials, and allowed UNC to submit a site plan which does not require public notice, hearings or BOCC approval.

The citizen appeal cites an October 2010 UNC letter to Planning Director Craig Benedict stating that North Carolina General Statute 153-347 precludes the County from regulating the wastewater system, and that State water quality rules pre-empt the County's ability to regulate the system. According to environmental attorney John Runkle, "Both interpretations unreasonably and unlawfully restrict the County's authority to regulate wastewater systems with a capacity greater than 3,000 gallons per day."

Walt Lobotsky first became aware of UNC's plans to expand the facility when he discovered surveyor's tape in the woods on his property in 2007. A previous Orange County Board of Commissioners gave UNC zoning by right, allowing UNC to locate facilities anywhere in the county without rezoning. As a result, Lobotsky and other neighbors were not required to be notified of UNC's development plans. "UNC removed a great extent of the buffer that once existed between the facility and adjoining neighbors by clearing the woods and constructing their new buildings and wastewater facilities very

close to the property line," says Lobotsky. "They had to replace newly installed industrial chillers to address and rectify noise issues, due to the proximity of the new buildings to the neighbors. I never understood why these laboratory animal resources were not managed by NC State."

In meetings with UNC officials beginning in December 2009 and throughout 2010, neighbors learned of troubling practices at UNC's animal research facility, a rural site where laboratory dogs, rodents, and quarantined primates have been housed since the 1970s. Before state laws regulated wastewater treatment, the facility discharged untreated animal wastewater directly into the creek. A malfunctioning incinerator at the site was being used to dispose of medical waste from the main campus. The failed wastewater system was "deemed permitted" by the state and was operating without a proper permit or an engineer certifying the construction. And UNC leaders had recently capped a well used at the site for decades without testing the water for contaminants.

In the spring of 2010, as the UNC facility's new wastewater system was shut down due to multiple wastewater spills and equipment failures, UNC received a \$14.5 million construction grant from the NIH. After receiving the grant, University officials disclosed that the new wastewater spray fields and road were constructed on wetlands in violation of the Clean Water Act. In the aftermath of multiple notices of violations of local, state and federal regulations, UNC Associate Vice Chancellor Bob Lowman spoke at a June 1, 2010 BOCC meeting and made a commitment to apply for all required permits and improve transparency and communications with the county and neighbors. In August of 2010 UNC returned the \$14.5 million stimulus funds to the NIH and scaled back expansion plans.

Before the wastewater system failed, PRO had submitted a public records request to UNC in June 2009 seeking information on the facility's four decades of research, environmental, waste and carcass disposal procedures. The request went largely unfulfilled. When news of illegal discharges became public in January 2010, PRO asked UNC to investigate the impacts of past operations and wastewater spills on the soil, silt and sediment in locations where wastewater leaked onto the ground and flowed into Collins Creek. A leaking wastewater lagoon with dropping water levels documented by a consultant had gone unreported for 52 days until state regulators identified wastewater with tracer dye leaking from a lagoon liner and flowing over land into the creek in December 2009. Despite University officials' promises to test neighbors' wells for water quality and availability, no wells have yet been tested.

Facility neighbors and PRO have urged county and state officials to exercise greater oversight of the UNC facility's construction plans, operations and compliance, and asked University officials for more proactive communication about plans and procedures in case of future incidents. The Division of Water Quality agreed to hold a public hearing this spring on UNC's application for a major modification of the facility's wastewater system. To date, UNC has not conducted studies to assess impacts in

locations where thousands of gallons of wastewater spilled, and neighbors are still waiting for University administrators to develop and implement protocols for water testing, communications and public safety.

PRO Board Chair Laura Streitfeld co-signed the appeal with Lobotsky to the Board of Adjustment on behalf of rural neighbors living next to and near the UNC property. Streitfeld asserts, "Our state university should be bound by the same rules and process that apply to anyone proposing a large development in the agricultural residential zone. With no municipal water or sewer service, the land doesn't easily support projects using industrial-scale water or septic systems. Orange County's water quality and availability are vital to the health of citizens and wildlife throughout the Triangle. We count on local leaders to protect creeks and rivers flowing into Jordan Lake, a regional drinking water supply. When the initial UNC facility expansion went forward in 2007 without public scrutiny, it came at a great economic and environmental expense, with an estimated \$5 million wasted on failed infrastructure. With county oversight, citizens hope to prevent further costs and impacts."

###

Laura Streitfeld
Chair, Board of Directors
Preserve Rural Orange
P.O. Box 1314
Carrboro, NC 27510
(919) 593-5411
info@preserveruralorange.org