



TOWN OF CARRBORO

NORTH CAROLINA

TRANSMITTAL

PLANNING DEPARTMENT

DELIVERED VIA: ☐ *HAND* ☒ *MAIL* ☐ *FAX* ☐ *EMAIL*

To: **David Andrews, Town Manager**
Mayor and Board of Aldermen

From: **Tina Moon, Planning Administrator**

Date: **June 23, 2016**

Subject: **Request for Rezoning and LUO Text Amendments for Proposed Development
at 700 Old Fayetteville Road**

BACKGROUND

On September 16, 2014 the Board received a request to set a public hearing on a proposed conditional use rezoning/conditional use permit application for the Lloyd Farm, a mixed use development at 700 Old Fayetteville Road. The Board did not set the public hearing but instead directed staff to explore options with the Dispute Settlement Center for developing a facilitated process by which the applicant, Argus Development, LLC, the Town and representatives from the adjacent neighborhood could better address neighbor concerns about the project. A mediation process followed and included a series of meetings during the summer and early fall of 2015. At the outset, the stakeholders agreed to a shared objective that at the end of mediation process the applicants would have a revised site plan and would be ready to resume the public hearing process. At the conclusion, the stakeholders agreed that the modified site plan could move forward as a request for conditional zoning.

Change to the Process. In February 2016, the applicants submitted a new application for the conditional zoning of the property. The change affects the process. With conditional use zoning the applicant submits the rezoning request and conditional use permit (CUP) materials at the same time; with conditional zoning the applicant submits the rezoning request first and, if approved, the CUP application follows afterward. The use of conditional zoning offers additional opportunity for public input and allows the Board greater flexibility to participate in conversations about the project outside of formal meetings; binding conditions are decided as part of the rezoning.

Changes to the Project. Changes to the project that were made in response to the mediation process are as follows:

- 1) **Residential use** - The residential component of the current proposal includes a senior-living (restricted to 55 years of age or older) development with approximately 200 apartments, a parking deck and 20 duplex cottages, instead of 293 apartments with a parking deck.
- 2) **Tree protection/open space** – The mature hardwood tree stand at the corner of Old Fayetteville Road with NC 54 will now be preserved as open space without intrusion of buildings or parking. To accomplish this, Lloyd Farm’s development program in that immediate area was reduced by 9,455 square feet. Twenty-eight parking spaces were also eliminated.
- 3) **Proposed dedication of land to the Town** - The applicant is offering the 4.67-acre tract (lots 3 and 4) at the northeast corner of the property and near the intersection of James and Carol Streets to be dedicated to the Town of Carrboro for recreation purposes instead of becoming a townhome community.
- 4) **Vehicular access & circulation** - Vehicular access and circulation differ between the two applications as a roundabout is now proposed for the Old Fayetteville Road entrance and a “left-over” entrance-only median break on NC 54 is proposed for use by eastbound traffic at the main NC 54 entrance. Both changes were requested during the mediation process. The applicant is in the process of updating the Traffic Impact Analysis to reflect these changes as well as the change to the residential units.
- 5) **Other site design changes** - The retail shops have been reoriented to shift shop frontages away from the adjoining neighborhood; the community gathering area has moved closer to the greenway; the 24-space parking lot north of the retail shops has been eliminated; and a 35-space parking lot located north of the access road has been eliminated.

OVERVIEW

Section 15-320 of the Land Use Ordinance (LUO) separates zoning map amendments into two categories--major and minor. This particular request involves fewer than five parcels of land and less than fifty acres overall. Per subsection 15-320 (b) the rezoning request is classified as a “minor map amendment.”

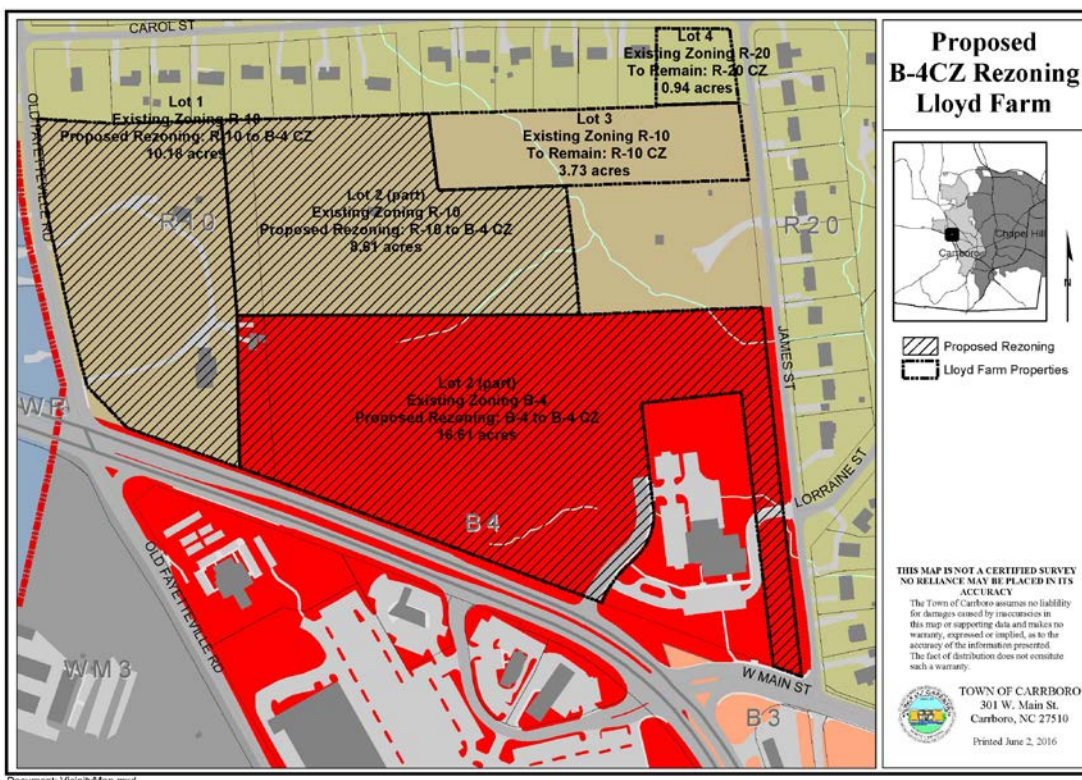
The subject property includes four parcels known collectively as the Lloyd Farm and located at the northeast corner of NC Hwy 54 and Old Fayetteville Road. The parcels are further identified by Orange County PIN numbers and shown on a vicinity map (Attachment C) as Lot 1 (PIN #9779-09-7922), Lot 2 (PIN #9778-19-6618), Lot 3 (PIN # 9779-10-7351) and Lot 4 (PIN # 9779-20-0449).

The table below offers an “at a glance” summary.

Lot	PIN	Existing Zoning	Proposed Zoning	Acreage
1	9779-09-7922	R-10	B-4-CZ	10.18
2	9778-19-6618	R-10	B-4-CZ	8.61
2	9778-19-6618	B-4	B-4-CZ	16.61
3	9779-10-7351	R-10	R-10-CZ	3.73
4	9779-20-0449	R-20	R-20-CZ	0.94

The applicant has offered to dedicate lots #3 and #4 to the Town, as a condition of the rezoning.

The vicinity map (below) shows the extent of the entire forty-acre site which currently falls within three different zoning classifications. While the petition for change of zoning includes the entire four-parcel assemblage, the development is proposed only for lots 1 and 2. Lot 2 currently falls within two different zoning classifications: R-10 and B-4. If approved, all of lots 1 and 2 would be rezoned to B-4-CZ; the remaining two smaller parcels fronting James Street would retain their current residential zoning, but as part of the overall assemblage would be rezoned conditional--R-10 to R-10-CZ and R-20 to R-20-CZ.



Document: VicinityMap.mxd

PETITIONERS/OWNERS

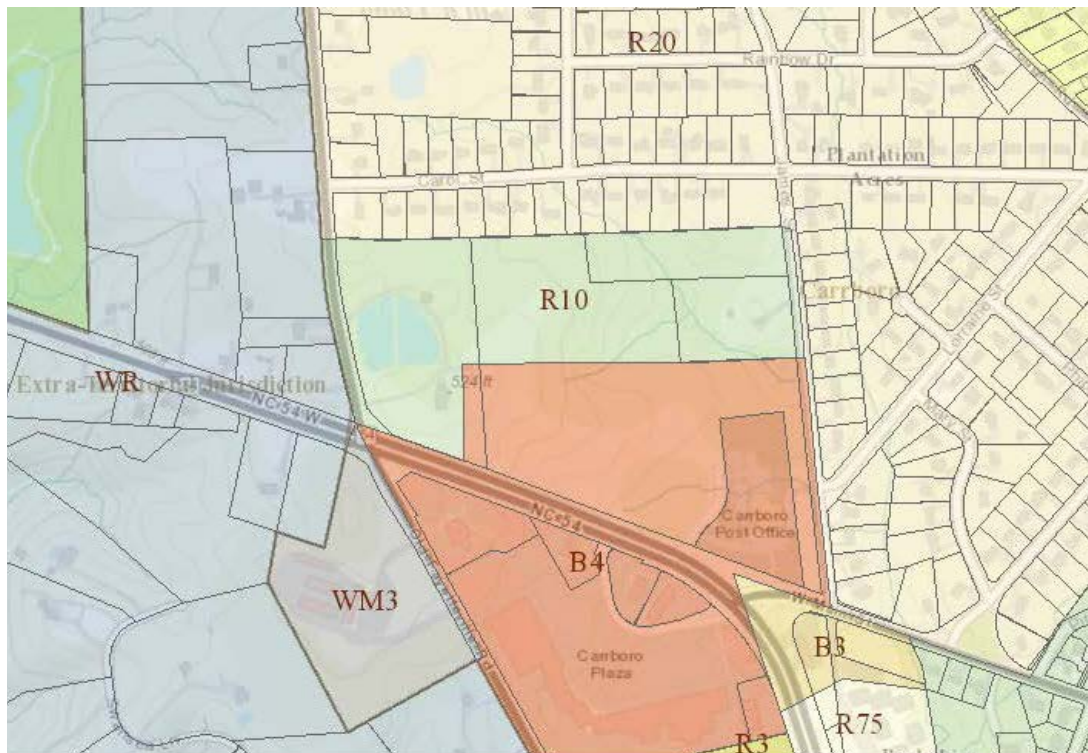
The subject property is owned by Shelton Gene Lloyd and Brody Lemuel Lloyd, owners and joint executors of the estate of Roy Shelton Lloyd. Ted Barnes, of Argus Development, LLC, is the developer.

DESCRIPTION OF THE AREA

Density and Dimensional Regulations. A comparison of the density and dimensional requirements between the existing (R-10 and B-4) and proposed zoning districts (B-4-CZ) provides a sense of the potential development impact on adjacent properties, should the zoning change occur. The surrounding properties are mainly single family residential. The units to the north of the proposed site, part of the subdivision known as Plantation Acres are zoned R-20; the single family residential units located on the west side of Old Fayetteville Road are zoned WR (Watershed Residential). Dimensional requirements are presented in the table below.

	Surrounding Zoning – R-20	Surrounding Zoning - WR	Existing Zoning – R- 10	Requested Zoning – B-4-CZ
Density	20,000 per dwelling unit	217,800 per dwelling unit	10,000 per dwelling unit	1,500 per dwelling unit
Height	35 feet	40 feet	35 feet	50 feet*
Setbacks	40/20 r/w; 20 log boundary	35/17.5 r/w; 20 lot boundary	25/12.5 r/w; 12 lot boundary	30/15 r/w; 10 lot boundary

*The applicants have requested a text amendment to the Land Use Ordinance to increase the maximum building height to 65 feet for the multi-family residential units.



COMPARISON OF ZONES

Existing Residential District. R-10 is a residential district with a minimum lot size/density requirement of 10,000 square feet per dwelling unit. Permitted uses in the R-10 district include a range of residential activities, civic, community, recreational, utility uses, and day cares and are allowed subject to the appropriate land use permit (zoning permit, special use permit or conditional use permit)..

Existing Business District. The B-4 (Outlying Concentrated Business) zoning district is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

Proposed Business District. The B-4-CZ (Outlying Concentrated Business, Conditional) zoning district is a conditional district, further described in Section 15-141.4. Conditional zoning districts are zoning districts in which the development and use of property so zoned is governed by the regulations applicable to one of the general use districts listed in the Table of Permissible Uses as modified by the conditions and restrictions imposed as part of the legislative decision creating the district and applying it to a particular property. In accordance with Subsection 15-141.4 (d) the conditional zoning district petition may be approved with a list of conditions and site-specific standards to address the conformance of the development and use of the site.

A conceptual site plan is attached to the agenda materials, separate from the staff memo. A draft list of conditions for the rezoning is also attached as part of a draft ordinance for the map amendment. The list of conditions may be further refined during the public hearing process. Should the Board of Aldermen adopted the proposed text amendment submitted as part of the development project, use classifications 1.232 (duplex, no bedroom limit), 1.242 (two family apartment, no bedroom limit), 1.322 (multi-family townhomes, no bedroom limits), and 1.332 (multi-family apartments with no bedroom limits) would also be a permitted use in the B-4-CZ district. A proposed condition would capped the residential density of the project at a maximum of 250 dwelling units, comprising of a combination of the residential units described above.

A comparison of permitted uses in the zoning districts is summarized in the table below. The conceptual rezoning site plan identifies the uses the applicants have proposed for the project.

General Use Category	Number of Uses Permitted in R-10 District	Number of Uses Permitted in B-4 District	Proposed Number of Uses in B-4- CZ District	Change in Uses Permitted
Residential (1.000)	26	0	4	-22
Sales and Rental of Goods (2.000)	0	5	5	+5

General Use Category	Number of Uses Permitted in R-10 District	Number of Uses Permitted in B-4 District	Proposed Number of Uses in B-4- CZ District	Change in Uses Permitted
Office, Clerical, Research (3.000)	0	6	6	+6
Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment(4)	0	0		0
Educational, Cultural, Religious, Philanthropic, Social (5.000)	3	7	7	+4
Recreation (6.000)	4	8	8	+6
Institutional Residence or Care of Confinement Facilities (7.000)	0	0	0	0
Restaurant, Bar, Nightclub (8.000)	0	6	6	+6
Motor Vehicle-related (9.000)	0	3	3	+3
Storage and Parking (10.000)	0	0	0	0
Scrap Materials Salvage Yards, Junkyards, Automobile Graveyards (11.000)	0	0	0	0
Services and Enterprises Related to Animals (12.000)	0	1	1	+1
Emergency Services (13.000)	4	4	4	0
Agricultural, Silvicultural, Mining, Quarrying (14.000)	3	1	1	-2
Public/Semi-public Utility Facilities (15.000)	2	6	6	+4
Dry Cleaner, Laundromat (16.000)	0	2	2	+2
Utility Facilities (17.000)	3	4	4	+1
Towers and Related Structures (18.000)	2	3	3	+1
Open Air Markets, Horticultural Sales (19.000)	0	1	1	+1
Funeral Home (20.000)	0	1	1	+1
Cemetery (21.000)	1	3	3	+2
Day Care (22.000)	4	4	4	0
Temporary Structure or Parking (23.000)	1	1	1	0
Commercial Greenhouses (25.000)	0	0	0	0
Subdivisions (26.000)	2	2	2	0
Combination Uses (27.000)	1	1	1	0
Planned Unit Developments (28.000)	1	1	1	0*
Special Events (29.000)	1	1	1	0
Planned Industrial Development(30.000)	0	0		0*
Off-Premises Signs (31.000)	0	0		0
Village Mixed Use (32.000)	0	0		0*
Office/Assembly Planned Development (33.000)	0	0		0*
Temporary Lodging (34.000)	1	1		0

Comparison of the Number of Uses, by General Category, in Existing and Proposed Zoning Districts.

* Permissible only in Planned Unit Development District, Planned Industrial Development, Village Mixed Use District, or Office/Assembly Planned Development (respectively) and subject to a conditional use permit.

ANALYSIS

Policy

Carrboro Vision2020 presents the policies that are expected to guide the Town's growth and development through the year 2020. In the Petition for Change of Zoning the petitioners have provided responses in support of their assertion that the proposed zoning district classification is consistent with the Town's adopted plans and policies. Staff has identified the following sections of Carrboro Vision2020 that pertain to the request for rezoning:

2.0 DEVELOPMENT

Carrboro's development should take place in a manner consistent with a set of adopted values. Growth should occur in a balanced fashion, and at a rate that does not jeopardized the values set forth by Vision 2020. The interests of all members of the community, including property owners, neighbors, and other interested citizens should be considered when making development decisions.

2.5 Balanced and Controlled Growth

2.52 The town should continue to require the construction of a diverse housing stock.

3.0 ECONOMIC DEVELOPMENT

With the population of Carrboro expected to increase during the Vision2020 period, additional commercial development should be anticipated both downtown and in peripheral areas. Carrboro should seek to reduce the tax burden on single-family owners by increasing the percentage of commercial space in town.

3.1 Nature of Development

In the interest of environmental preservation, new commercial development must minimize negative environmental impact, it must emphasize appropriate buffers, and it must not compromise the integrity of established neighborhoods.

3.3 New Commercial Growth

Opportunities for new commercial growth exist primarily in four areas: downtown, across from the Carrboro Plaza Shopping Center, within the commercial core of a village mixed-use development, and within new office/assembly conditional use developments. The latter two options are most obviously appropriate in the transition area, but may be approved throughout the town's jurisdiction.

3.312 All shopping centers should be connected to residential areas with increased pedestrian access.

4.5 New Development

4.51 The town should continue to require developers to install sidewalks and bicycle paths in new developments.

4.52 New developments should bear the costs of upgrading connector and arterial facilities in the areas adjacent to their properties to the extent appropriate, including upgrades to serve pedestrians and bicycles, given the added load to the infrastructure and anticipated use of facilities.

6.1 Housing for a Diverse Population

6.11 Town policy should accommodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.

6.16 With our growing population of senior citizens, the town should support the creation of more housing that allows our senior citizens to interact fully with the larger community. Senior access to public transit will become an increasingly important concern.

CONSIDERATIONS

When considering a map amendment, the principal question before the Town is whether the rezoning advances the public health, safety, or welfare (Section 15-325). The project under review seeks approval of a map amendment to a conditional zoning district; the Board of Aldermen is to consider whether the proposed site plan and associated conditions is consistent with Town policies and interests. The review and approval of a request for conditional rezoning does not remove the need for issuance of a land use permit for the proposed use(s) and a subsequent permit application must demonstrate permit compliance unless an amendment to the Land Use Ordinance has been approved; conditions cannot relieve a project of compliance with the land use regulations. The applicant has submitted a request for three text amendments which must be approved in order for the plan submitted with this conditional zoning map amendment request to be approvable.

A complete permit review has not been completed as the details required with a conditional rezoning request are limited; staff has not identified any factors which would prevent later approval of a conditional use permit. The review of mutually acceptable conditions Section 15-324 of the LUO requires that the Board adopt a statement describing the consistency of the amendment with an officially adopted plan and explaining why the action is reasonable and in the public interest. Staff will present a draft list of conditions to the Board as part of the public hearing for further consideration and discussion.

The Board of Aldermen cannot, at this time, technically and formally approve the project beyond the conceptual level presented in the amendment request. It must be noted, however, that with the level of detail that has been provided (which may be considered reasonably necessary to discuss a project of this size and scope) regarding the building plan and likely development impacts, approval of the map amendment with conditions and accompanying concept plan would effectively, and practically express support and acceptance for this project in its entirety and as presently represented.

ARTICLE IX

ZONING DISTRICTS AND ZONING MAP

PART I. ZONING DISTRICTS

Section 15-135 Residential Districts Established.

(a) The following basic residential districts are hereby established: R-20, R-15, R-10, R-7.5, R-3, R-2, R-R, R-S.I.R., and R-S.I.R.-2. The purpose of each of the foregoing residential districts is to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in non-residential districts. (AMENDED 5/12/81; 12/7/83; 2/4/86)

Section 15-136 Commercial Districts Established (AMENDED 02/4/86; 05/28/02).

The districts described below are hereby created to accomplish the purposes and serve the objectives indicated:

(5) **B-4 OUTLYING CONCENTRATED BUSINESS.** This zone is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

ARTICLE XX

AMENDMENTS

Section 15-320 Amendments in General

(a) Amendments to the text of this chapter or to the zoning map may be made in accordance with the provisions of this article, or in the case of nonsubstantive editorial changes, may be made administratively by the planning director, as described in Section 15-38 of this ordinance. **(AMENDED 09/01/87)**

(b) The term “major map amendment” shall refer to an amendment that addresses the zoning district classification of five or more tracts of land in separate ownership or any parcel of land (regardless of the number of lots or owners) in excess of fifty acres. All other amendments to the zoning district map shall be referred to as “minor map amendments.”

(c) All properties within the University Lake Watershed are zoned WR, B-5, WM-3 or C. As provided in Subsection 15-137(b), no additional areas may be rezoned WM-3 or B-5, and no areas within the University Lake Watershed may be rezoned to any classification other than WR, or C. **(AMENDED 10/15/96)**

(d) The regulations applicable to the watershed districts do, and all amendments to these regulations shall, comply with the water supply watershed protection rules promulgated by the State pursuant to G.S. 143-214.5. Copies of all amendments to Sections 15-265 or 15-266 shall be sent to the Division of Community Assistance, Division of Environmental Health, and Division of Water Quality. **(AMENDED 10/15/96)**

Section 15-321 Initiation of Amendments

(a) Whenever a request to amend this chapter is initiated by the Board of Aldermen, the planning board, the board of adjustment, the appearance commission, or the town administration, the town attorney in consultation with the planning staff shall draft an appropriate ordinance and present that ordinance to the Board of Aldermen so that a date for a public hearing may be set.

(b) Any other person may also petition the Board to amend this chapter. The petition shall be filed with the planning department and shall include, among the information deemed relevant by the planning department:

- (1) The name, address, and phone number of the applicant.
- (2) A description of the land affected by the amendment if a change in zoning district classification is proposed.
- (3) Stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 15-323.

- (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter.
 - (5) A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest.
- (c) Upon receipt of a petition as provided in (b), the planning staff shall either:
- (1) Treat the proposed amendment as one initiated by the town administration and proceed in accordance with subsection (a) if it believes that the proposed amendment has significant merit and would benefit the general public interest; or
 - (2) Forward the petition to the Board with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with subsection (d).
- (d) Upon receipt of a proposed ordinance as provided in subsection (a), the Board may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in subsection (b), the Board may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the planning staff, to draft an appropriate ordinance.

**Section 15-322 Planning Board and Other Advisory Consideration of Proposed Amendments
(AMENDED 10/24/06)**

- (a) If the Board sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved, and may refer the amendment to the transportation advisory board if the amendment involves community transportation issues. **(AMENDED 09/19/95)**
- (b) The planning board shall advise and comment on whether the proposed amendment is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plans officially adopted by the Board of Aldermen. The planning board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the planning board. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Board of Aldermen may proceed in its consideration of the amendment without the planning board report. **(AMENDED 10/24/06)**
- (c) A comment by the planning board that a proposed amendment is inconsistent with the Land Use Plan, Thoroughfare Plan or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen, and the Board of Aldermen is not bound by the recommendations of the planning board. **(AMENDED 10/24/06)**
- (d) A member of the planning board and any other advisory committee that provides direct advice to the Board of Aldermen (i.e. it does not report to the planning board) shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being

considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. **(AMENDED 10/24/06)**

Section 15-323 Hearing Required: Notice

(a) No ordinance that amends any of the provisions of this chapter may be adopted until a public hearing has been held on such ordinance.

(b) The planning staff shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the Carrboro area. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the hearing. This period is to be computed in accordance with G.S. 160A-364, which provides that the date of publication is not counted but the date of the hearing is.

(c) With respect to all map amendments, the planning staff shall mail, by first class mail, written notice of the public hearing to the record owners of all properties whose zoning classification is changed by the proposed amendment as well as the owners of all properties any portion of which is within 1000 feet of the property rezoned by the amendment. For purposes of this section the term "owners" shall mean the persons shown as owners on Orange County's computerized land records system. The planning staff shall also make reasonable efforts to mail a similar written notice to the non-owner occupants of residential rental property located within 1,000 feet of the lot that is the subject of the rezoning. The notices required by this subsection shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The staff member mailing such notices shall certify to the board that the notices have been mailed, and such certificate shall be deemed conclusive in the absence of fraud. **(AMENDED 10/12/82; 1/22/85; 10/1/85; 04/15/97; 3/26/02)**

(d) The first class mail notice required under subsection (c) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in subsection (c) of this section or may, as an alternative, elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half (1/2) of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Orange County property tax listing for the affected property, shall be notified according to the provisions of subsection (c) of this section. **(AMENDED 10/24/06)**

(e) For proposed zoning map amendments, the planning staff shall prominently post a notice of the public hearing on the site proposed for a rezoning or an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the planning staff shall post sufficient notices to provide reasonable notice to interested persons.

(f) The planning staff shall take any other action deemed by the Planning Department to be useful or appropriate to give notice of the public hearing on any proposed amendment.

(g) The notice required or authorized by this section (other than the posted notice required by subsection (e)) shall: **(AMENDED 11/24/09)**

- (1) State the date, time, and place of the public hearing.
- (2) Summarize the nature and character of the proposed change.
- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment.
- (4) State that the full text of the amendment can be obtained from the town clerk.
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

(h) The planning staff shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is the Board's intention that the notice requirements set forth in this section that are not required by state law shall not be regarded as mandatory, and therefore a failure to comply with such requirements shall not render any amendment invalid. **(AMENDED 11/24/09)**

(i) Except for a town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply (regardless of how the staff treats the proposed amendment under subsection 15-321(c)), the applicant shall certify to the Board of Aldermen that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the Board of Aldermen that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. **(AMENDED 11/24/09)**

(j) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection 15-323(i) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a city-initiated zoning map amendment. **(AMENDED 11/24/09)**

Section 15-324 Board Action on Amendments (AMENDED 10/24/06)

(a) At the conclusion of the public hearing on a proposed amendment, the Board may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

(b) The Board is not required to take final action on a proposed amendment within any specific period of time, but it should proceed as expeditiously as practicable on petitions for amendments since inordinate delays can result in the petitioner incurring unnecessary costs.

(c) Voting on amendments to this chapter shall proceed in the same manner as on other ordinances, subject to Section 15-326 of the Land Use Ordinance and Section 2-15 of the Town Code.

(d) Prior to adopting or rejecting any zoning amendment, the Board shall adopt a statement describing whether its action is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plan officially adopted by the Board and explaining why the Board considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.

(e) A Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (See also Carrboro Town Code Section 2-35).

Section 15-325 Ultimate Issue Before Board on Amendments

In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Board is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. In particular, when considering proposed minor map amendments:

- (1) Except when the request is to rezone property to a conditional use district or conditional zoning district, the Board shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification. **(AMENDED 05/25/99; 05/27/08)**
- (2) The Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 15-326 Protests to Zoning Map Amendments (AMENDED 10/24/06).

(a) If a petition opposing an amendment to the zoning map is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Board membership. For the purposes of this subsection, vacant positions on the Board and members who are excused from voting shall not be considered "members of the Board" for calculation of the requisite supermajority.

(b) To trigger the three-fourths vote requirement, the petition must: **(AMENDED 11/26/85)**

- (1) Be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide

buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the Orange County tax listing to determine the “owners” of potentially qualifying areas. **(AMENDED 10/24/06)**

- (2) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.
- (3) Be received by the town clerk in sufficient time to allow the town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.
- (4) Be on a form provided by the town clerk and contain all the information requested on this form.

(c) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.

(d) The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of this chapter as a result of annexation or otherwise.