

Language for Town of Carrboro Land Use Ordinance for Utilities Amendment Request

1) What the LUO presently allows:

Page 185 of LUO. Allows Underground Utility Lines as well as above ground utility facilities to be permitted with a Zoning Permit with use classification #17.400.

2) What the proposed amendment would allow:

Require Underground Utility Lines associated with gas and electric utilities as well as above ground utility facilities for such utilities to be permitted with either a Conditional Use or Special Unit Permit with use classification #17.400.

3) Reasons for proposed amendment:

a) **The right to a public hearing:** Property owners should be afforded the right to present their concerns, legal and equitable, about the construction of such facilities and underground utilities to the Board of Aldermen or Board of Adjustment in a quasi-legal hearing. Staff should not have the discretion to keep such property owner concerns from public, legal consideration. Any legal concern can be presented by staff, including the town attorney, at such a hearing. Carrboro should follow the lead of Orange County in requiring the permitting process.

b) **The right to have a point of contact:** When multi-million dollar companies that can involve other such companies as contractors and subcontractors bring their resources to such developments, the individual citizen is at a severe disadvantage in responding to their actions and failure to follow local, state and federal regulations. The layers of different types of employees with different companies, coupled with the many permits, Federal and State, create a rubric's cube of complexity that is beyond the abilities and expertise of the average property owner. The property owner should be able, at a minimum, to ask the BOA or BOA for the right to have the town staff and the board manage the project and serve as a point of entry responsible for concerns about the development.

b) **Significant risk from the utility:** These types of utilities, especially natural gas, pose a significant risk to not only the adjoining property owners but also to neighboring residential property owners and drivers of vehicles passing on roads next to the facilities. Under a zoning permit, there is no way for the town to guarantee and protect the safety of property owners and their property and families due to its stance that it cannot insist a safety and evacuation plan should a pipeline leak or rupture. On behalf of citizens, the town should be able to, for instance, inspect the pipes.

c) **Significant impact without regulation on the environment:** Such projects have the potential to have significant impact on tree preservation, wetlands and stormwater management

that affects the property of adjoining property owners. For most other development, the town has crafted over many years of hard work a very carefully written set of stormwater regulations. The property owner should be allowed, at the very least, to petition the BOAldermen or BOAAdjustment to require those regulations be applied to mitigate the impacts of predicted storm events to slow the rate of runoff, prevent erosion, and prevent sediment from entering streams and waterways. Screening from large clearing of easement could be addressed as well.

d) Control of construction impact: The property owner should have right to petition either Board for the identification of a staff department which will respond to concerns about these projects in terms of the temporary or permanent impact of noise, dust, odors and other nuisances disrupting quality of life, particularly in a residential zone, and that are described in part in Article XI of the LUO, that may or may not be addressed with standards in the LUO. These issues would also potentially involve questions about establishing clear hours of operation in accordance with the LUO and following them as well as providing the expected general construction schedule and giving advance notice of equipment/material mobilization.

e) Enforcing Orange County's Special Use Permit provisions: Where Orange County has established special use permit provisions, the property owner should be able to ask that the town require the applicant to abide by them, where the owner, though not a Carrboro citizen, is subject to the LUO because of their location within Carrboro's planning jurisdiction. These provisions would include an emergency action plan, preservation of historical/cultural resources in the area of the pipeline or other utility, communication of all conditions to contractors and subcontractors, ensure any crews act toward property owners in a neighborly, courteous manner, applying for and receiving all required State and Federal permits, and abiding by the conditions/operational parameters as denoted on any approved site plan.