



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Meeting Agenda Town Council



Tuesday, April 6, 2021

7:00 PM

Remote Meeting - View Livestream or Cable TV

18

7:00-7:05

A. ROLL CALL

7:05-7:10

B. POETRY READING, RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS

1. [21-99](#) Proclamation - Poetry Month

7:10-7:15

C. ANNOUNCEMENT OF UPCOMING MEETINGS

7:15-7:25

D. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

Comments are limited to three minutes per speaker.

7:25-7:35

E. CONSENT AGENDA

1. [21-98](#) Approval of Minutes from the February 23, March 2nd, and March 9th, 2021 Meeting Minutes
2. [21-90](#) EPA 319 Program Grant for Stormwater Management and Stabilizing Erosion in Residential Area Near Bolin Creek
PURPOSE: The purpose of this agenda item is to inform the Town Council of the intent to submit a 319 grant application to support a collaborative effort to stabilize erosion occurring in an 11 acre drainage area in the Bolin Forest neighborhood.

Attachments: [Attachment A - 319 Grant Resolution](#)
[Attachment B - Staff memo](#)

3. [21-96](#) Authorization for Town Manager to sign Interlocal Agreement Related to the Current and Future Use of the Jointly Owned Greene Tract

PURPOSE: The purpose of this agenda item is for the Town Council to consider authorizing the Town Manager to sign an interlocal agreement between Carrboro, Orange County, and the Town of Chapel Hill regarding the current and future use of the jointly owned Greene Tract.

Attachments: [A - Interlocal Agreement](#)

[B - Greene Tract Update](#)

4. [21-91](#) Request to Authorize the Town Manager to Sign an Application Related to Potential Creation of Affordable Housing on Town-Owned Land

PURPOSE: The purpose of this item is for the Town Council to consider authorizing the Town Manager to sign an application related to potential new affordable housing on the town-owned parcel located at 106 Hill Street.

Attachments: [Attachment A - Resolution](#)

5. [21-97](#) Appointments to the Planning Board

PURPOSE: The purpose of this agenda item is for the Town Council to make appointments to the Planning Board.

Attachments: [Attachment A - Appointment Resolution](#)

[Attachment B - Matrix](#)

[Attachment C - Chair Forms and Applications](#)

F. PUBLIC HEARING

7:35-8:20

1. [21-94](#) Public Hearing - The 203 South Greensboro Project -Approval of Principal Building Design Features

PURPOSE: The purpose of this item is to provide the Town Council an opportunity to receive an update on the design process and to approve the principal building design features identified to date.

Attachments: [A - Location map](#)

[B- Advisory Review](#)

[C- 2018-2020 comparison](#)

8:20-8:45

2. [21-95](#) Public hearing on the permanent closing of a portion of the Maple

Avenue Right of Way

PURPOSE: The purpose of this agenda item is to receive public comment on a proposal to permanently close a portion of the Maple Avenue right-of-way.

Attachments: [Attachment A - Order Closing a Portion of the Maple Avenue Right of Way](#)
[Attachment B - R/W Partial Closing](#)

G. OTHER MATTERS**8:45-9:05****1. [21-65](#) Transportation Projects Update**

PURPOSE: The purpose of this agenda item is to provide the Town Council with information about the status of various transportation projects around Town.

Attachments: [Attachment A - Transportation Projects Report](#)
[Attachment B - NCDOT NCNMVDP 2014-2020 Data Summary Report](#)
[Attachment C - Draft Town Code Amendments for Shared Active Transportation Systems](#)

9:05-9:35**2. [21-92](#) Downtown Slow Zone Discussion**

PURPOSE: The purpose of this agenda item is to provide information on current speed data, enforcement practices, and allow for discussion of the downtown slow zone concept.

Attachments: [Attachment A - Slow Zone Staff Memo](#)
[Attachment B - Map of Posted Speed Limits](#)
[Attachment C - Map of Speed Data Collected](#)
[Attachment D - Map of Speed Limit Compliance Rates](#)
[Attachment E - Map of Street Maintenance Responsibilities](#)

9:35-10:00**3. [21-93](#) Information on Text Amendments Required as part of G.S. Chapter 160D, Part 3**

PURPOSE: The purpose of this item is provide the Town Council with the third installment of draft text amendments to the Land Use Ordinance required by the adoption of G.S. Chapter 160D.

Attachments: [Attachment A - Draft ordinance 3-30-2021 working](#)
[Attachment B - Table working 03-12-2021](#)
[Attachment C - ART-I working 03-26-2021 working draft](#)
[Attachment D - ART-II working 03-30-2021](#)
[Attachment E - ART-XIII working 3-12-2021](#)
[Attachment F - ART-XIV working 03-12-2021](#)
[Attachment G - ART-XV-working 03-12-2021](#)
[Attachment H - ART-XVI working 3-12-2021](#)
[Attachment I - ART-XVIII working 3-12-2021](#)
[Attachment J - ART-XIX working 3-12-2021 \(& 22a Screening and Trees\)](#)

H. MATTERS BY COUNCIL MEMBERS



Town of Carrboro

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Agenda Item Abstract

File Number:21-99

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Proclamation - Poetry Month



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Agenda Item Abstract

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Approval of Minutes from the February 23, March 2nd, and March 9th, 2021 Meeting Minutes



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Agenda Item Abstract

File Number:21-90

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

EPA 319 Program Grant for Stormwater Management and Stabilizing Erosion in Residential Area Near Bolin Creek

PURPOSE: The purpose of this agenda item is to inform the Town Council of the intent to submit a 319 grant application to support a collaborative effort to stabilize erosion occurring in an 11 acre drainage area in the Bolin Forest neighborhood.

DEPARTMENT: Public Works

CONTACT INFORMATION: Randy Dodd, Stormwater Utility Manager (919) 918-7341, rdodd@townofcarrboro.org

INFORMATION: The lower extent of Bolin Creek in Carrboro has been on the State/Federal list of impaired waters for over 15 years because the aquatic insect community, a prime indicator of creek health, is suboptimal, as determined by both State and Town monitoring. In 2008/2009, both Carrboro and Chapel Hill received 319 grants which sponsored projects over a 4 year span to make progress in improving watershed/creek health. One of the outcomes was the completion of a Bolin Creek Watershed Restoration Plan in 2012 that met the requirements for eligibility for future federal/state support. Since the Stormwater Utility was formed in 2017, staff have been looking for an appropriate opportunity to submit a new 319 application. The best opportunity identified to date is for erosion and small stream stabilization in the Bolin Forest neighborhood. The watershed is comprised of a combination of single family residential lots and open space from 3 HOAs.

The project concept that has been identified is to pursue stormwater management and ephemeral stream channel stabilization efforts in an 11 acre drainage. The Town would submit the grant application and provide in kind support with grant administration (if awarded). 9 other organizations (including the 3 HOAs) will provide in kind and cash match with a large amount of outreach and volunteer support. The other partners include OWASA, Orange County Soil and Water Conservation, NC Cooperative Extension, Friends of Bolin Creek, UNC Institute of the Environment and a Carrboro High School teacher. The attached memo provides more information about the site and proposed project. As currently scoped, about \$100k of costs for the stabilization/restoration work is envisioned. With the in kind match, the total project value is estimated at \$175k.

EPA 319 grants are administered by NCDEQ, and annual applications reviewed through a competitive process.

Agenda Date: 4/6/2021

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There is a 40% match requirement which can be met via cash or in-kind. The eligible applicant pool is limited to organizations that are implementing an approved 319 Watershed Restoration Plan. The application deadline is May 4. Selection will occur later in 2021 with funding being available in early 2022

Staff intend to share plans to submit the application with the Stormwater Advisory Commission (April 8), and will continue communicating with the interested neighborhood representatives and partners as part of preparing and submitting the application (May 4th deadline). It is anticipated that DEQ will be making awards in late summer/early fall. .

FISCAL & STAFF IMPACT: There will be a small staff impact with completing and submitting the application- much of the necessary legwork has already been completed, with considerable support from the other partners. There would also be a staff impact associated with grant administration. No fiscal impact is anticipated.

RECOMMENDATION: It is recommended that the Council adopt the attached resolution. If the application is approved by NCDEQ an agenda item will be brought back to consider accepting an award later in 2021.

**A RESOLUTION SUPPORTING A GRANT APPLICATION UNDER SECTION 319
OF THE CLEAN WATER ACT**

WHEREAS, the Town began pursuing watershed restoration work in the Bolin Creek Watershed in 2006 in recognition of Bolin Creek being identified as an impaired waterbody by the NCDEQ;

WHEREAS, the Town received a grant from the Clean Water Management Trust Fund in 2007 to identify and pursue restoration opportunities, and;

WHEREAS, the Town worked with the Town of Chapel Hill and other members of the Bolin Creek Watershed Restoration Team on a grant received in 2008 under Section 319 of the Clean Water Act, and received a separate 319 grant to pursue watershed restoration projects in 2009; and

WHEREAS, a Bolin Creek Watershed Restoration Plan was completed in 2012 which is the basis for the Town to continue to be eligible for 319 grant funding; and

WHEREAS, watershed restoration opportunities have recently been identified by Carrboro residents, in collaboration with a group of local partners, as identified in the staff memo.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Town Council that the Council authorize staff to submit a 319 application to pursue this recently identified watershed restoration opportunity.

This is the 6th day of April in the year 2021.



TOWN OF CARRBORO

NORTH CAROLINA

TRANSMITTAL PUBLIC WORKS DEPARTMENT

To: David Andrews, Town Manager
Town Council

From: Randy Dodd, Stormwater Utility Manager

Through: Joe Guckavan, Public Works Director

Cc: Heather Holley, Stormwater Specialist
Emily Cochran, Stormwater Administrator

Date: March 30, 2021

Subject: EPA 319 Grant Opportunity

Summary

The purpose of this memo is to provide background information regarding a proposed 319 grant application.

Information

What is an EPA 319 Grant?

Through Section 319(h) of the Clean Water Act, the U.S. Environmental Protection Agency provides states with funding to reduce nonpoint source pollution. North Carolina has received \$1.2 million for competitive funding of watershed restoration projects for the current cycle. State and local governments, interstate and intrastate agencies, public and private nonprofit organizations, and educational institutions are eligible to apply for 319 funding. An interagency workgroup reviews the proposals and selects those to be funded.

What will a 319 Grant fund?

Funds may be used to conduct projects such as stormwater and agricultural best management practices and restoration of impaired streams. Section 319 grant projects must be used to help restore waterbodies currently impaired by nonpoint source pollution in areas with approved watershed restoration plans.

What does Bolin Creek watershed restoration involve?

EPA's 319 program identifies "9 elements" of a watershed restoration plan. These are

1. An information/education component
2. A monitoring component
3. Identification of the causes (stressors) and sources or groups of similar sources that need to be controlled to reduce pollution
4. Identification of the needed restoration measures.
5. An assessment of the improvements associated with the chosen actions
6. Criteria used to determine whether substantial restoration progress is being made

7. An assessment of the resources (technical, financial) needed and authorities that will be relied upon, to implement the plan.
8. A longer term implementation plan and schedule
9. Identification of interim, measurable milestones to track progress in achieving restoration goals.

The Bolin Creek Watershed Restoration Plan (2012) was directed by these 9 elements and provides a comprehensive framework for restoration work. In addition, 319 funding heavily relies on “measurable results” of improvements. This involves water quality/water resources based metrics.

What is proposed in the application?

The purpose of the proposed project is to stabilize soils and an eroding gully in a small catchment draining three adjoining neighborhoods both for its inherent importance and as a highly relevant demonstration for broader watershed restoration efforts. This project would restore approximately 700 linear feet of an ephemeral channel and treat stormwater runoff from 11 acres in the Bolin Creek watershed right at the upstream extent of where Bolin Creek is recognized as an impaired stream. The ephemeral channel directly conveys untreated stormwater from adjacent properties into Bolin Creek. The project area includes land owned by three homeowner’s associations (Phase 2 Bolin Forest HOA, Phase 3 Bolin Forest HOA and Forest Court HOA) and an easement of the Orange Water and Sewer Authority (OWASA). Preliminary design work has been completed/sponsored by the Bolin Forest Phase II and III HOAs and reviewed by all project partners. The project will be a partnership between the Homeowner’s Associations, Orange Water and Sewer Authority, Orange County, the Friends of Bolin Creek, the NC Cooperative Extension Service, UNC, the local school system, and the Town of Carrboro. There will be extensive volunteer work and publicity and outreach to fully leverage the grant funds. Land use in the Bolin Creek watershed, and especially in the upper Bolin Creek watershed, is dominated by single family residential neighborhoods, and geomorphic instability is a driver of water quality concerns. This project will be a very important demonstration not only of a creative and effective technical solution for this setting, but of the critical importance of the public/private/nonprofit partnerships needed to address erosion and sediment delivery in small residential catchments and along headwater and ephemeral streams. Considerable attention will be given to sharing solutions with other residents and neighborhoods in the Bolin Creek watershed. Outreach products will also be created that will be broadly applicable for other communities and watersheds.

Additional information about the proposed project scope is available in Appendix A.

Why is this particular project recommended? Where any alternatives available or considered?

This project is recommended because, in staff opinion: it presents a positive step towards watershed restoration; it will be of benefit to the neighborhoods and residents; it is responsive to the RFP and appears to have a good probability of success; it is a good example of what can be accomplished through a broad collaboration; and it promises to have community and watershed wide benefits.

Staff have been interested in identifying/developing 319 grant application projects, have some general ideas for opportunities to consider, but have not had the capacity to fully develop another good 319 project to consider, to date.

What are the match requirements?

All projects must include non-federal matching funds of at least 40% of the project's total costs. For this effort, the match is proposed to be met mostly through in kind from all the project participants, but with some cash match from the HOAs and neighborhood residents.

What is the grant schedule?

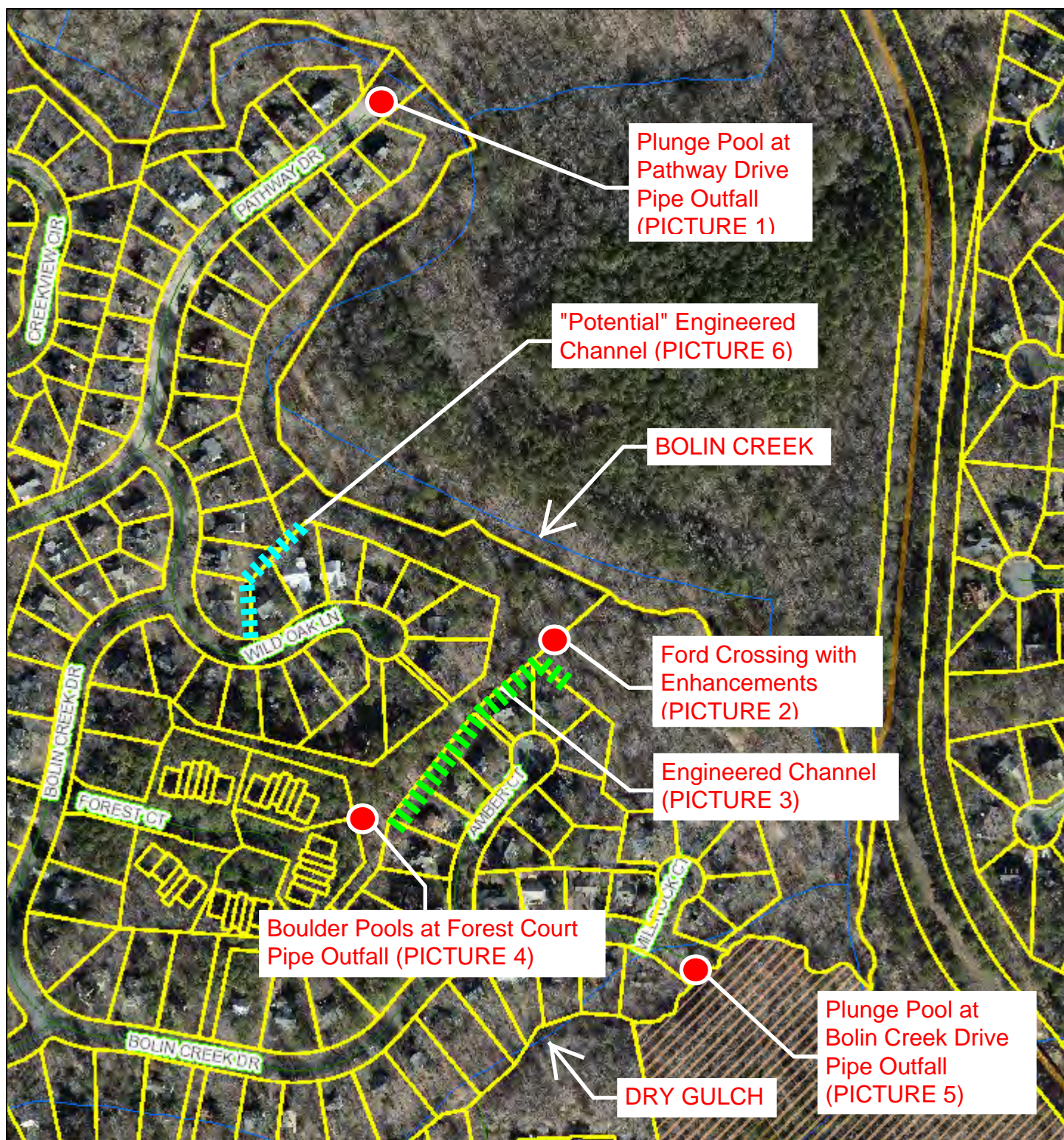
- Late January: Request for Proposals released
- May 4: 319 Grant Application deadline
- Early June: Applicants notified whether they will be invited for in-person interviews
- Late June: Notified applicants interviewed in Raleigh; selected projects announced
- January of 2022: Projects may start (estimated, depending on grant award date to NCDEQ and time for contract preparation)

Additional information about the grant opportunity, including the RFP, application, and review criteria is available at <https://deq.nc.gov/about/divisions/water-resources/planning/nonpoint-source-management/319-grant-program#2021-319-grant-application-materials>. Additional information about the Bolin Creek watershed restoration effort is available at <https://www.townofcarrboro.org/280/Bolin-Creek-Watershed-Restoration>

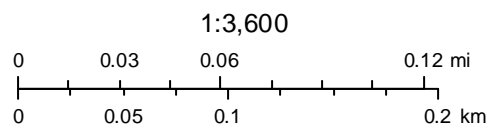
Recommendation

Stormwater staff recommend that the Council adopt the resolution authorizing staff to submit the 319 grant application for the project described above.

Locations of Proposed Stormwater Management Improvements



March 10, 2021





PICTURE 1 – PLUNGE POOL TO BE LOCATED AT PATHWAY DRIVE PIPE OUTFALL



PICTURE 2 – FORD CROSSING WITH ENHANCEMENTS TO BE LOCATED ACROSS OWASA EASEMENT



PICTURE 3 – ENGINEERED CHANNEL TO BE LOCATED ALONG EXISTING CHANNEL (ON RIGHT)



PICTURE 4 – BOULDER POOLS TO BE LOCATED AT FOREST COURT PIPE OUTFALL



PICTURE 5 – PLUNGE POOL TO BE LOCATED AT BOLIN CREEK DRIVE PIPE OUFALL



PICTURE 6 – “POTENTIAL” ENGINEERED CHANNEL (SCOPE BEING REFINED)



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TITLE:

Authorization for Town Manager to sign Interlocal Agreement Related to the Current and Future Use of the Jointly Owned Greene Tract

PURPOSE: The purpose of this agenda item is for the Town Council to consider authorizing the Town Manager to sign an interlocal agreement between Carrboro, Orange County, and the Town of Chapel Hill regarding the current and future use of the jointly owned Greene Tract.

DEPARTMENT: Planning Department

CONTACT INFORMATION: Patricia McGuire - 919-918-7327, pmcguire@townofcarrboro.org [<mailto:pmcguire@townofcarrboro.org>](mailto:pmcguire@townofcarrboro.org); Martin Roupe - 919-918-7333, mroupe@townofcarrboro.org [<mailto:mroupe@townofcarrboro.org>](mailto:mroupe@townofcarrboro.org)

INFORMATION: The Greene Tract is a 164-acre parcel of which 104 acres is jointly owned by Orange County, Carrboro and Chapel Hill and 60 acres is owned by Orange County (designated as the Headwaters Preserve).

Since 2017, a joint staff work group has been reporting to the Mayors, Managers, and Chair subcommittee on preservation and development potential of the existing Greene Tract. A draft interlocal agreement has been developed and is included as Attachment A. A summary of the activities that have been underway is included as Attachment B.

FISCAL & STAFF IMPACT: No specific or extraordinary impacts are currently known.

RECOMMENDATION: Staff recommends that the Carrboro Town Council direct the Town Manager with authority to sign the interlocal agreement included as Attachment A on its behalf.

**INTERLOCAL AGREEMENT BETWEEN ORANGE COUNTY AND THE TOWNS OF
CARRBORO AND CHAPEL HILL REGARDING THE CURRENT AND FUTURE USE
OF THE JOINTLY OWNED GREENE TRACT**

THIS AGREEMENT, made and entered into this ____ day of _____, 2021 between Towns of Carrboro and Chapel Hill, North Carolina municipal corporations, of Orange County, North Carolina (hereinafter referred to individually as the “Town” and jointly as “Towns”); and Orange County, a political subdivision of the State of North Carolina (hereinafter referred to as the “County”), regarding the use of the jointly owned Greene Tract, having approximately 104 acres and identified by PIN 9870739888 in the Orange County Registry (hereinafter referred to as the “Property”) and the 60 acres owned exclusively by Orange County and identified by PIN 9870855283 in the Orange County Registry (hereinafter referred to as the “Headwaters Preserve”). (County and Towns may be referred to collectively as the “Parties”).

WITNESSETH

WHEREAS, the Parties are public bodies, politic and corporate, under the laws of the State of North Carolina and are vested with the power and authority by Article 20 of North Carolina General Statutes Chapter 160A to enter into this Interlocal Agreement (hereinafter referred to as the “Agreement”); and

WHEREAS, the 164 acres, more or less, was purchased in 1984 for \$608,000 for use as a future landfill; and

WHEREAS, the Property and the Headwaters Preserve are located within the Chapel Hill’s Extraterritorial Jurisdiction and subject to the Town of Chapel Hill’s development regulations; and

WHEREAS, the Parties jointly own the Property with Orange County having a 43% interest, the Town of Chapel Hill having a 43% interest, and the Town of Carrboro having a 14% interest in 104 acres of the Greene Tract and Orange County owns 100% interest in the Headwaters Preserve (60 acres) ; and

WHEREAS, the Parties desire to establish procedures, rights, responsibilities, and uses of and for the Property; and

WHEREAS, the Parties agree that some portion of the Property should be dedicated to providing affordable and mixed income housing and other uses; and

WHEREAS, the Parties agree that some portion of the Property should be reserved for a future school site with public recreation; and

WHEREAS, the Parties agree that the 60 acres currently owned by Orange County should be reconfigured to preserve the most environmentally sensitive area and preserved as the Headwaters Preserve following evaluation of an Environmental

Assessment Report, opportunity for public engagement and further deliberation by the governing boards of the Parties

WHEREAS, the Parties desire to ensure their goals and principles for the use of the Property are followed and adhered to, including connectivity for example access, infrastructure, and environmental, and the preservation of some natural areas within the Property.

WHEREAS, the Parties on January 21 and 22, 2020 adopted resolutions to develop an agreement regarding the uses of the Greene Tract; and

NOW, THEREFORE, in consideration of the foregoing and on mutual promises and obligations set forth herein, the receipt and sufficiency of which is hereby acknowledged, the County and Towns agree as follows:

1. TERM AND TERMINATION

The initial term of this Agreement shall be for a period of two (2) years from the date first above recorded.

This Agreement shall automatically renew for five (5) five-year terms unless sooner terminated.

This Agreement may be terminated by the Parties hereto upon mutual written agreement of all the Parties.

Any Party may withdraw from this Agreement without penalty or further obligation with 60 days' notice to the other Parties.

2. RESPONSIBILITIES OF THE PARTIES

The Parties shall, in good faith, work together to determine the best uses of the Property. In no particular order this shall include:

- a. Jointly developing necessary Requests for Qualifications for professional services for any and all studies or plans for the Property;
- b. Review of and, to the extent practical, implementation of best practices pursuant to an environmental assessment and any other relevant study of the Property;
- c. Consideration of public input into the ultimate uses of the Property;
- d. Potential subdivision of the Property to more closely align with agreed upon uses and goals such as connectivity, access to services, and/or preservation;

- e. Preservation of the Headwaters Preserve, as it may be reconfigured;
- f. Respecting the rights of each of the other Parties as joint owners of the Property;
- g. Assigning the Mayors, Chair, and Managers to be the Representatives of the Parties for the purpose of negotiating the ultimate uses of the Property and working directly with staff to bring such negotiated results to the governing boards for final approval and determination;
- h. Maintaining financial responsibility for all costs associated with the implementation of this Agreement in direct proportion to each Party's ownership interest in the 104 acre portion of the Property (43/43/14);
- i. Jointly conducting all public engagement and conducting no individual public engagement regarding the Property;
- j. The Parties' staffs shall develop a work plan that includes, among other things, a decision point timeline regarding development of the Property;
- k. Reaching Final Determinations on the uses of the Property within 18 months of the execution of this Agreement.

3. PUBLIC PARTICIPATION AND DECISION-MAKING

Public Engagement. It is the intent of the Parties to engage public participation in determining the final uses of the Property. The public engagement contemplated in this Agreement shall occur jointly. The Parties shall not engage in individual staff or individual governing board public engagement. This public input will be considered as part of the next steps.

Affordable and Mixed Income Housing and other uses. It is the present intent of the Parties that approximately 66 acres of the Property shall be used for the development of affordable and mixed income housing and other uses. The Parties' staffs shall consult with affordable housing stakeholders to seek input regarding preferred sites, special needs, connectivity, and any other information relevant to the ultimate selection of the site(s) for affordable and mixed income housing. The Parties shall work together to retain a developer(s) to develop that portion of the Property ultimately reserved for affordable and mixed income housing.

School Site with Public Recreation. It is the present intent of the Parties that approximately 16 acres of the Property are reserved for a future school site for a public school site with public recreation. The Parties' staffs shall consult with

school administration to seek input regarding preferred sites, special needs, and any other information regarding the ultimate selection and/or size of the site.

Joint Preserve. It is the present intent of the Parties that approximately 22 acres of the Property shall be reserved for preservation of environmentally sensitive areas in addition to the Headwaters Preserve. The Parties' will consider ownership, use, operation, and maintenance.

Connectivity. The parties will work together to draft a connectivity plans including vehicular, bicycle and pedestrian modes, public transportation, and utilities.

Recombination. The Property may be subdivided and/or recombined with neighboring parcels, including the Headwaters Preserve, to provide for better connectivity, access to services, and/or preservation.

Development Agreement. The present intent of the Parties is to draft a Development Agreement and to set forth parameters for development regulations applicable to the Property. The Parties shall work together ensure such development plans adhere to the intent of this Agreement.

4. FINAL DETERMINATION

The final number of and intended uses have not been finalized and are subject to change. Following receipt of the Environmental Assessment, any opportunities for public engagement directed by the local governments, and governing board comment staff of each Party will jointly examine the best uses of the Property and the number of acres for and locations of those uses on the Property, will jointly seek further public input on those issues, and will make recommendations to their governing boards for a final determination. Such Final Determination shall be evidenced by a written amendment to this Agreement to be executed within 18 months of its execution.

5. DISPUTES

During the first 18 months, should disputes arise regarding implementation of this Agreement during any intermediate or implementation responsibility phase or subsequent term resolution of such disputes shall include a Resolution Meeting as described in this Section 5, which may include third party facilitation. If the dispute is not resolved within 60 days of initial consideration at a Resolution Meeting the governing boards shall seek to resolve the dispute by mediation.

If, 18 months after this Agreement is executed by the Parties, disputes have emerged regarding the ultimate uses of the Property, the size of the portions of the Property for designated uses, or any other aspect of the Property such that a Final Determination of the uses and related decisions regarding the Property cannot be agreed upon the Parties shall attempt to resolve the disputes as follows:

Resolution Meeting. The Representatives shall notify each other of the specific disputes that need discussion and meet together with each Party's attorney to attempt to resolve the disputes. If discussion is successful, the proposed resolution will be submitted to each Party's governing board for approval of the Representatives' decision. If resolution is unsuccessful within 60 days the Parties shall mediate the disputes.

Mediation. The Representatives and the Parties' attorneys shall jointly agree on and select a mediator to assist in resolving the dispute. Mediation must occur and be concluded within three months of the notification required for a Resolution Meeting. The governing boards of the Parties must approve any mediated resolution.

6. DIVISION OR SALE

No Party shall 1) file any legal action or proceeding to force sale or division of the Property without having engaged in all dispute resolution procedures set out herein, if applicable, and, subsequent thereto, without first providing 60 days' written notice to the other Parties, or 2) enter into any agreement to sell, mortgage, or otherwise transfer all or any part of its ownership interest in the Property without first offering the other Parties the option to receive, purchase, or otherwise obtain the selling Party's interest in the Property. If the other Parties fail to respond to such option within 60 days of the offer the transferring Party may divest itself of its ownership interest in the Property according to property divestiture laws of North Carolina.

7. NOTICE

Any notice pursuant to this Agreement, or any amendment or renewal, shall be in writing and delivered by United States Mail to the following:

To the County:

Orange County
County Manager
P.O. Box 8181
Hillsborough, NC 27278

To Chapel Hill:

Town of Chapel Hill
Town Manager
405 Martin Luther King, Jr. Blvd.
Chapel Hill, NC 27514

To Carrboro:

Town of Carrboro
Town Manager
301 West Main Street
Carrboro, NC 27510

8. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the Parties hereto and supersedes all prior agreements between or among the Parties regarding uses of the Property and any such agreements are hereby declared void. This Agreement is effective the date first above recorded.

[SIGNATURE PAGE TO FOLLOW]

In witness whereof, the Parties, by and through their authorized agents, have hereunder set their hands and seal as of the day and year first above written.

Mayor, Town of Carrboro

Mayor, Town of Chapel Hill

ATTEST:

ATTEST:

Town Clerk

Town Clerk

Chair, Orange County

ATTEST:

Clerk to the Board

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

Carrboro Finance Director

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

Chapel Hill Finance Director

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

Orange County Finance Director



Greene Tract Update

April 2021

Background

January 2020 – Greene Tract Resolution for a Path Forward

- The Towns and County adopted the 2020 Greene Tract Resolution. The resolution included the following:
 - Identified land use acreages for the Greene Tract
 - Initiated an environmental assessment
 - Initiated drafting of an Interlocal Agreement between the three jurisdictions

February 2020 – Managers, Mayors, and Chair (MMC) Meeting

- MMC met to review the draft Greene Tract Interlocal Agreement (ILA). The MMC completed a thorough reading and review of the draft ILA. Minor modifications were proposed by the MMC.

April 2020 – Greene Tract Environmental Assessment

- Orange County entered into an agreement with SynTerra to complete the Greene Tract Environmental Assessment (EA).
- SynTerra reviewed background information, conducted fieldwork, and completed an environmental analysis of the Greene Tract.
- Jurisdictional Determination of wetlands application was completed and submitted it to US Army Corps of Engineers
- The final EA was provided to the three jurisdictions over the summer and can be found at the following links:
 - <https://www.orangecountync.gov/DocumentCenter/View/14103/2020-Greene-Tract-Environmental-Assessment>
 - <https://www.townofcarrboro.org/DocumentCenter/View/8688/Greene-Tract-Environmental-Assessment--Suitability-Analysis-July-2020?bidId=>
 - <http://chplan.us/GreeneTract>

January 2021 – Managers, Mayors, and Chair (MMC) Meeting

- MMC reviewed the Greene Tract Environmental Assessment and determine next steps for the Greene Tract including the draft ILA and community outreach.

February 2021 – Managers, Mayors, and Chair (MMC) Meeting

- MMC reviewed the draft ILA from February 2020 and agreed to present the ILA to their Boards in April 2021.

April 2021 - Greene Tract Interlocal Agreement

- Greene Tract Interlocal Agreement was presented to the three local governments for adoption consideration.
 - Town of Carrboro – April 6, 2021
 - Orange County – April 6, 2021
 - Town of Chapel Hill – April 7, 2021

Next Steps

Implementation Strategy – Ongoing

- Staff work group has commenced work on an implementation strategy which includes the following steps:
 - Determining preservation and development goals
 - Re-initiate discussions regarding land use type and location, density, affordable housing, and infrastructure
 - Creating a framework for a future development plan
 - Developing a community outreach plan
 - Site analysis of the proposed elementary school site (led by Chapel Hill – Carrboro City Schools)

Community Outreach – Ongoing

- Over the last couple of months, the MMC discussed various options to present the Greene Tract Environmental Assessment and review the next steps with the community.
- Due to concerns with public safety and equitable access, the MMC decided to delay in-person and/or virtual public meetings or outreach at this time and agreed to:
 - Revisit in late summer to determine how to proceed
 - Develop a public engagement timeline once community outreach resumes
- Planning staff is proceeding with the drafting of a virtual webinar in order to present the findings of the Greene Tract Environmental Assessment to the public and Board members.
 - Webinars will be made available on all three local governments' webpages.
 - Listening sessions and other options to make the webinars accessible to the community will be explored.

Joint Resolution – Winter 2021

- Following approval of the ILA and community outreach, staff will initiate the drafting of a joint resolution for adoption.
- Resolution for recombination of the Greene Tract to include:
 - New County-owned Headwaters Preserve area (60 acres),
 - Joint-owned preserve area (approximately 22 acres), and
 - Development area, which will contain the elementary school and recreational site (approximately 82 acres).
- Recombination survey will be presented to all three local governments for approval.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-91

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Request to Authorize the Town Manager to Sign an Application Related to Potential Creation of Affordable Housing on Town-Owned Land

PURPOSE: The purpose of this item is for the Town Council to consider authorizing the Town Manager to sign an application related to potential new affordable housing on the town-owned parcel located at 106 Hill Street.

DEPARTMENT: Planning Department & Housing and Community Services Department

CONTACT INFORMATION: Patricia McGuire, Planning Director, pmcguire@townofcarrboro.org, (919) 918-7327; Rebecca Buzzard, Housing and Community Services Director, rbuzzard@townofcarrboro.org, (919) 918-7438

INFORMATION: On [June 19, 2018 <https://carrboro.legistar.com/LegislationDetail.aspx?ID=3508037&GUID=A87A3FE4-CEF1-4F97-820E-15272F88CE07&Options=ID|Text|&Search=affordable+housing>](https://carrboro.legistar.com/LegislationDetail.aspx?ID=3508037&GUID=A87A3FE4-CEF1-4F97-820E-15272F88CE07&Options=ID|Text|&Search=affordable+housing), the Town Council supported the

development of town owned land for affordable housing and staff presented three high potential parcels. One parcel, 106 Hill Street, has substantial development constraints and therefore lends itself to the development of small homes. A local nonprofit, Pee Wee Homes, is interested in developing small affordable homes on the parcel. A variance will need to be granted in order to allow for the homes to be built within portions of a stream buffer on the property, which is located on top of an underground drainage pipe. Town Council is asked to consider adopting the attached resolution, Attachment A, authorizing the Town Manager to sign the variance application allowing Pee Wee Homes to apply for a variance.

As additional background about the project and Pee Wee Homes, over the past year Northside Neighborhood Initiative (NNI) participants have discussed support for building small homes in Northside, in Chapel Hill, and the Lloyd / Broad neighborhood, in Carrboro. Pee Wee Homes has worked with the NNI and the Town of Chapel Hill to construct 7 units, a duplex on Craig Street and 3 units on the Church of the Advocate site. A third location is currently under construction for the 2 additional units. Pee Wee Homes presented their model to the Affordable Housing Advisory Commission (AHAC) and submitted drawings to Planning staff. On February 17, 2021 the AHAC expressed support for the project and passed a recommendation for the Town to donate the land to Pee Wee Homes. Staff recommends waiting to consider the donation of the parcel until the viability of the project via a variance and possible rezoning is established.

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

FISCAL & STAFF IMPACT: None at this time. The request to donate the parcel would come back to Council at a later date, pending the decision by the Board of Adjustment.

RECOMMENDATION: Staff recommends that the Council consider adopting the attached resolution, Attachment A, authorizing the Town Manager to sign an application for a variance related to the Town-owned parcel at 106 Hill Street.

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO SIGN A VARIANCE
APPLICATION RELATED TO POTENTIAL AFFORDABLE HOUSING AT 106 HILL
STREET

WHEREAS, the Carrboro Town Council supports the creation of affordable housing within the town's jurisdiction; and

WHEREAS, the Carrboro Town Council supported the creation of affordable housing on town owned land on June 19, 2018; and

WHEREAS, a local nonprofit, Pee Wee Homes, is interested in developing affordable housing on a town owned parcel at 106 Hill Street if a variance is granted by the Board of Adjustment allowing for a building envelope of sufficient size to construct.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Town Council that the Town Manager is authorized to sign a variance application allowing Pee Wee Homes to apply for a variance related to the potential creation of affordable housing at 106 Hill Street.

This the 6th day of April, 2021



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-97

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Appointments to the Planning Board

PURPOSE: The purpose of this agenda item is for the Town Council to make appointments to the Planning Board.

DEPARTMENT: Town Clerk

CONTACT INFORMATION: Cathy Dorando, 919-918-7309

INFORMATION: The Planning Board currently has three seats available for appointment with one of those being a first term expiration seat.

Applications were received from Khadijah Amina and James Baker. Braxton Foushee has a first term expiring and both has indicated the desire to be reappointed.

Catherine Fray is the chair of the Planning Board and provided the chair forms for the Council's review. Chair forms are located directly in front of the application.

Town Council members are encouraged to review the [Advisory Board Recruitment and Appointment Policy](http://townofcarrboro.org/DocumentCenter/View/5358/Town-of-Carrboro-Advisory-Board-Recruitment-and-Appointment-Policy->) [<http://townofcarrboro.org/DocumentCenter/View/5358/Town-of-Carrboro-Advisory-Board-Recruitment-and-Appointment-Policy->](http://townofcarrboro.org/DocumentCenter/View/5358/Town-of-Carrboro-Advisory-Board-Recruitment-and-Appointment-Policy->).

All applicant and chair information is attached.

A matrix is also included.

FISCAL & STAFF IMPACT: N/A

RECOMMENDATION: It is recommended that the Mayor and Council review the applications and consider making appointments.

ATTACHMENT A

**A RESOLUTION MAKING AN APPOINTMENT TO THE
PLANNING BOARD**

THE TOWN COUNCIL HEREBY APPOINTS THE FOLLOWING APPLICANT(S) TO THE
PLANNING BOARD:

Appointee	Term Expiration
Khadijah Amina	2/2024
James Baker	2/2025
Braxton Foushee	2/2024

Section 2. This resolution shall become effective upon adoption.

Current makeup of the Planning Board:

NAME	ADDRESS	TERM EXPIRATION	DOB	RACE	SEX	OCCUPATION
Bruce Sinclair	1530 Pathway Drive	2/2024	7/1951	Caucasian	Male	Retired
Catherine Fray	116 Alabama Ave.	2/2023	5/1986	White	Nonbinary	IT Consultant
Kirsten Leloudis	142 BPW Club Road	2/2022	11/1991	White	Female	Attorney
Susan Poulton	8720 Union Grove Church	2/2023	5/1949	W	Female	Retired
Rasam Tooloe	102 Painted Turtle Lane	2/2021	5/1972	Mixed	Male	Director of Sales
Braxton Foushee (Reapplied)	100 Williams St.	2/2021	12/1939	Black	Male	Retired
David Clinton	106 Fox Run	2/2022	Unknown	Caucasian/European	Male	Architect
Eliazar Posada	605 Jones Ferry Rd.	2/2022	10/1992	Latino	Male	Sr. Management Nonprofit
Elmira Mangum	102 Rivercreek Place	2/2022	4/1963	African-American	Female	Retired
Vacant						
Vacant						

Applicant summary information (full detail in application):

NAME	ADDRESS	DOB	RACE	SEX	OCCUPATION
Khadijah Amina	300 S Camellia	NULL	AA	Female	Retired
James Baker	703 W Main St	6/1983	White	Male	Attorney
Braxton Foushee	See above				

Print

Advisory Board Chair Report (Complete One Per Applicant) - Submission #5309

Date Submitted: 3/16/2021

Advisory Board Name:*

Planning Board

Chair Name*

Catherine Fray

Applicant First Name:*

Khadijah

Applicant Last Name:

Amina

1. Has the applicant previously served on this or another advisory board?*

☐

Yes

☒

No

2. If yes, how many total years have they served?

This should be available on the application or by asking the applicant.

3. Is the applicant already serving on this advisory board and seeking reappointment to their second, full term?

☐

Yes (Skip to Last Question)

☒

No

4. Is the applicant already serving on this advisory board and completed their two full terms?

☐

Yes

☒

No

5. Is the applicant applying for a special or expert seat on the advisory board?*

☐

Yes

☒

No

6. If yes, which seat?

7. Did the applicant attend an advisory board meeting?*

☒

Yes

☐

No

8. If applicant did not attend an advisory board meeting, did you contact them via phone or email?

☐

Yes

☐

No

9. Applicant has demonstrated a clear understanding of the time commitment, roles, and responsibilities of serving on the advisory board:

- ☒
- Yes
- ☐
- No

10. If no, briefly explain:

11. In addition to your comments above, please check other qualities that the applicant offers that would help the Advisory Board meet its goals for community representation. Please note that candidates who do not meet any of these qualities are still eligible for appointment. Please communicate any urgent needs and priorities for Advisory Board composition to your Town Council liaison.

- ☒
- Diversity
- ☐
- Occupation, Experience, or Special Skills
- ☐
- Other

If other, please explain:

Print

Advisory Board Application - Submission #5030

Date Submitted: 11/1/2020

First Name*

khadijah

Last Name*

Amina

Date*

10/28/2020

Select today's date

Address1*

300 S camellia st

Address2

apt 308

City*

cnapel Hill

State

NC

Zip*

27516

Is this address located within the corporate limits of the Town of Carrboro?*

Yes

Please select Yes or No.

Is this address located within the Town's ETJ, Planning Jurisdiction, or Northern Transition Area?*

Unsure

Telephone*

9199239476

Please enter your primary contact phone number.

Email Address*

kamina0123@yahoo.com

Enter your primary email address.

The demographic information provided below is of interest because your elected officials want the Town's advisory boards to reflect the diversity of the Town. Diversity of the applicant pool is a priority of the Board.

Date of Birth*

10/28/2020

Please enter your Month/Day/Year of Birth

Race*

AA

Please enter your race.

Sex*

Female

Please enter your sex.

Occupation*

Retired

Please enter your occupation.

Are you a registered Orange County Voter?*

Yes

Please answer Yes or No

Length of Residence in Orange County*

17 years

How long have you been a resident of Orange County?

Length of Residence in the Town of Carrboro*

17 years

How long have you been a resident of the Town of Carrboro?

I wish to be considered for appointment to the following committee/board(s) (Select no more than two (2)):

- | | |
|---|--|
| <input type="checkbox"/> Affordable Housing Advisory Commission | <input type="checkbox"/> Northern Transition Area Advisory Committee |
| <input type="checkbox"/> Appearance Commission/NPDC | <input type="checkbox"/> OWASA Board of Directors |
| <input type="checkbox"/> Arts Committee | <input checked="" type="checkbox"/> Planning Board |
| <input checked="" type="checkbox"/> Board of Adjustment | <input type="checkbox"/> Recreation and Parks Commission |
| <input type="checkbox"/> Economic Sustainability Commission | <input type="checkbox"/> Stormwater Advisory Commission |
| <input type="checkbox"/> Environmental Advisory Board | <input type="checkbox"/> Tourism Development Authority* |
| <input type="checkbox"/> Human Services Commission | <input type="checkbox"/> Transportation Advisory Board |
| <input type="checkbox"/> Greenways Commission | |

Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Other (advisory board not listed):

Please indicate by typing the advisory board that you are applying for.

****Employer/Self Employed**

Retired

Please enter your employment information. This is a requirement for application for the Tourism Development Authority.

Advisory Board Preference*

Planning Board

Please indicate your preference by typing your first choice. Please limit your selection above to two boards).

Number of Years Employed

Enter the number of years you have been employed at the organization listed to the left.

**** Provide examples of how you are involved in the promotion of travel and tourism in the Town of Carrboro.**

Required only for the Tourism Development Authority Application.

Community Activities/Organizational Memberships*

Management of Winmore Garden, Community Food Distribution, Community Children Art projects.

Please enter the requested information.

Relevant Experience:*

None

Reasons You Wish to be Appointed*

I would like to be involved in the growth and development of our city.

Have you ever served on any Town of Carrboro Committee or Board?*

If yes, which one(s)?

No

Are you currently serving on a Town Board or Committee?*

☐

Yes

☒

No

If yes, are you applying for a third consecutive term?*

☐

Yes

☒

No

If yes, please describe how you meet one, or more, of the following exceptions noted below.

After completing two full terms, a member must take off one year before applying for re-appointment to the same advisory board. However, a board member may apply to serve on another advisory board if he/she desires. The Board of Aldermen may make exceptions to this rule under the following circumstances: 1. To retain diversity on an advisory board; 2. A lack of applicants.

Print

Advisory Board Chair Report (Complete One Per Applicant) - Submission #5311

Date Submitted: 3/16/2021

Advisory Board Name:*

Planning Board

Chair Name*

Catherine Fray

Applicant First Name:*

James

Applicant Last Name:

Baker

1. Has the applicant previously served on this or another advisory board?*



Yes



No

2. If yes, how many total years have they served?

6

This should be available on the application or by asking the applicant.

3. Is the applicant already serving on this advisory board and seeking reappointment to their second, full term?



Yes (Skip to Last Question)



No

4. Is the applicant already serving on this advisory board and completed their two full terms?



Yes



No

5. Is the applicant applying for a special or expert seat on the advisory board?*



Yes



No

6. If yes, which seat?

7. Did the applicant attend an advisory board meeting?*



Yes



No

8. If applicant did not attend an advisory board meeting, did you contact them via phone or email?



Yes



No

9. Applicant has demonstrated a clear understanding of the time commitment, roles, and responsibilities of serving on the advisory board:

- ☒
- Yes
- ☐
- No

10. If no, briefly explain:

11. In addition to your comments above, please check other qualities that the applicant offers that would help the Advisory Board meet its goals for community representation. Please note that candidates who do not meet any of these qualities are still eligible for appointment. Please communicate any urgent needs and priorities for Advisory Board composition to your Town Council liaison.

- ☐
- Diversity
- ☐
- Occupation, Experience, or Special Skills
- ☐
- Other

If other, please explain:

Print

Advisory Board Application - Submission #5066

Date Submitted: 12/16/2020

First Name*

James

Last Name*

Baker

Date*

12/16/2020

Select today's date

Address1*

703 W Main St

Address2

City*

Carrboro

State

North Carolina

Zip*

27510

Is this address located within the corporate limits of the Town of Carrboro?*

Yes

Please select Yes or No.

Is this address located within the Town's ETJ, Planning Jurisdiction, or Northern Transition Area?*

No

Telephone (111)-111-1111*

7045754693

Please enter your primary contact phone number.

Email Address*

jamesrbaker@gmail.com

Enter your primary email address.

The demographic information provided below is of interest because your elected officials want the Town's advisory boards to reflect the diversity of the Town. Diversity of the applicant pool is a priority of the Board.

Current Age*

6/5/1983

Race*

white

Please enter your race.

Sex*

male

Please enter your sex.

Occupation*

attorney

Please enter your occupation.

Are you a registered Orange County Voter?*

Yes

Please answer Yes or No

Length of Residence in Orange County*

19

How long have you been a resident of Orange County?

Length of Residence in the Town of Carrboro*

10

How long have you been a resident of the Town of Carrboro?

I wish to be considered for appointment to the following committee/board(s) (Select no more than two (2)):

- | | |
|---|--|
| <input type="checkbox"/> Affordable Housing Advisory Commission | <input type="checkbox"/> Greenways Commission |
| <input type="checkbox"/> Appearance Commission/NPDC | <input type="checkbox"/> Northern Transition Area Advisory Committee |
| <input type="checkbox"/> Arts Committee | <input type="checkbox"/> OWASA Board of Directors |
| <input type="checkbox"/> Board of Adjustment | <input checked="" type="checkbox"/> Planning Board |
| <input type="checkbox"/> Climate Action Team | <input type="checkbox"/> Recreation and Parks Commission |
| <input type="checkbox"/> Economic Sustainability Commission | <input type="checkbox"/> Stormwater Advisory Commission |
| <input type="checkbox"/> Environmental Advisory Board | <input type="checkbox"/> Tourism Development Authority* |
| <input type="checkbox"/> Human Services Commission | <input checked="" type="checkbox"/> Transportation Advisory Board |

Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Other (advisory board not listed):

Please indicate by typing the advisory board that you are applying for.

Advisory Board Preference*

No preference. I would consider a different board if I am not a good fit for these vacancies.

Please indicate your preference by typing your first choice. Please limit your selection above to two boards).

****Employer/Self Employed**

NC Attorney General's Office

Please enter your employment information. This is a requirement for application for the Tourism Development Authority.

Number of Years Employed

Enter the number of years you have been employed at the organization listed to the left.

**** Provide examples of how you are involved in the promotion of travel and tourism in the Town of Carrboro.**

Required only for the Tourism Development Authority Application.

Community Activities/Organizational Memberships*

North Carolina Bar Association, Ask A Lawyer Day Organizer, WildTrack LLC board member, Carrboro Board of Adjustment

Please enter the requested information.

Relevant Experience:*

I am an attorney with experience in local government law, non-profits, contract and zoning law. I have also served two terms on the Carrboro Board of Adjustment.

Reasons You Wish to be Appointed*

I wish to be appointed to the board because I care about Carrboro and want to assist in its day to day function. I enjoy participating in the life of the town and getting to better know its people. I am applying for vacancies on the Planning and Transportation Advisory Boards because I think this best suits my skillset, but I would be happy to serve on a different board if it would help to better enable a diversity of perspectives on each board.

We believe as a Town and as a Town Council that racial equity and diversity and inclusion are important. Please tell us your thoughts about this and why they are important not only in advisory board/commission work but also in all facets of local government and community work.*

Carrboro is made up of all its people. Without an explicit commitment to diversity and inclusion at all levels of town life, it is too easy for structural inequality and other barriers to prevent valued community members from having an equal voice in the life of the town. While I think my views and expertise may be of a benefit to an advisory board, others may not feel welcomed in the same way that I do - despite the town's stated goals. Carrboro must reflect all of its population for everyone to thrive.

Have you ever served on any Town of Carrboro Committee or Board?*

If yes, which one(s)?

Adjustment

Yes

Are you currently serving on a Town Board or Committee?*



Yes



No

If yes, are you applying for a third consecutive term?*



Yes



No

If yes, please describe how you meet one, or more, of the following exceptions noted below.

I am currently serving on the Board of Adjustment. My second term will expire on March 1, 2021. If selected to a different board I would resign my current position.

After completing two full terms, a member must take off one year before applying for re-appointment to the same advisory board. However, a board member may apply to serve on another advisory board if he/she desires. The Board of Aldermen may make exceptions to this rule under the following circumstances: 1. To retain diversity on an advisory board; 2. A lack of applicants.

Print

Advisory Board Chair Report (Complete One Per Applicant) - Submission #5310

Date Submitted: 3/16/2021

Advisory Board Name:*

Planning Board

Chair Name*

Catherine Fray

Applicant First Name:*

Braxton

Applicant Last Name:

Foushee

1. Has the applicant previously served on this or another advisory board?*



Yes



No

2. If yes, how many total years have they served?

9+ years

This should be available on the application or by asking the applicant.

3. Is the applicant already serving on this advisory board and seeking reappointment to their second, full term?



Yes (Skip to Last Question)



No

4. Is the applicant already serving on this advisory board and completed their two full terms?



Yes



No

5. Is the applicant applying for a special or expert seat on the advisory board?*



Yes



No

6. If yes, which seat?

7. Did the applicant attend an advisory board meeting?*



Yes



No

8. If applicant did not attend an advisory board meeting, did you contact them via phone or email?



Yes



No

9. Applicant has demonstrated a clear understanding of the time commitment, roles, and responsibilities of serving on the advisory board:



Yes



No

10. If no, briefly explain:

11. In addition to your comments above, please check other qualities that the applicant offers that would help the Advisory Board meet its goals for community representation. Please note that candidates who do not meet any of these qualities are still eligible for appointment. Please communicate any urgent needs and priorities for Advisory Board composition to your Town Council liaison.



Diversity



Occupation, Experience, or Special Skills



Other

If other, please explain:

Print

Advisory Board Application - Submission #5061

Date Submitted: 12/13/2020

First Name*

Braxton

Last Name*

Foushee

Date*

12/13/2020

Select today's date

Address1*

100 Williams Street

Address2

City*

Carrboro

State

NC

Zip*

27510

Is this address located within the corporate limits of the Town of Carrboro?*

Yes

Please select Yes or No.

Is this address located within the Town's ETJ, Planning Jurisdiction, or Northern Transition Area?*

No

Telephone (111)-111-1111*

9194170587

Please enter your primary contact phone number.

Email Address*

dunkin322@hotmail.com

Enter your primary email address.

The demographic information provided below is of interest because your elected officials want the Town's advisory boards to reflect the diversity of the Town. Diversity of the applicant pool is a priority of the Board.

Current Age*

12/13/1939

Race*

Black

Please enter your race.

Sex*

Male

Please enter your sex.

Occupation*

Retired

Please enter your occupation.

Are you a registered Orange County Voter?*

Yes

Please answer Yes or No

Length of Residence in Orange County*

81 years

How long have you been a resident of Orange County?

Length of Residence in the Town of Carrboro*

40 years

How long have you been a resident of the Town of Carrboro?

I wish to be considered for appointment to the following committee/board(s) (Select no more than two (2)):

- | | |
|---|--|
| <input type="checkbox"/> Affordable Housing Advisory Commission | <input type="checkbox"/> Greenways Commission |
| <input type="checkbox"/> Appearance Commission/NPDC | <input type="checkbox"/> Northern Transition Area Advisory Committee |
| <input type="checkbox"/> Arts Committee | <input type="checkbox"/> OWASA Board of Directors |
| <input type="checkbox"/> Board of Adjustment | <input checked="" type="checkbox"/> Planning Board |
| <input type="checkbox"/> Climate Action Team | <input type="checkbox"/> Recreation and Parks Commission |
| <input type="checkbox"/> Economic Sustainability Commission | <input type="checkbox"/> Stormwater Advisory Commission |
| <input type="checkbox"/> Environmental Advisory Board | <input type="checkbox"/> Tourism Development Authority* |
| <input type="checkbox"/> Human Services Commission | <input type="checkbox"/> Transportation Advisory Board |

Please note that membership is limited to one advisory board at a time. You shall not be considered for appointment to another board unless you resign before filing an application or you are in the last six months of your current term.

Other (advisory board not listed):

Please indicate by typing the advisory board that you are applying for.

****Employer/Self Employed**

Retired

Please enter your employment information. This is a requirement for application for the Tourism Development Authority.

Advisory Board Preference*

Planning Board

Please indicate your preference by typing your first choice. Please limit your selection above to two boards).

Number of Years Employed

Enter the number of years you have been employed at the organization listed to the left.

**** Provide examples of how you are involved in the promotion of travel and tourism in the Town of Carrboro.**

Required only for the Tourism Development Authority Application.

Community Activities/Organizational Memberships*

Town of Carrboro Planning Board, Chapel Hill-Carrboro NAACP Silver Life Member (Exec Committee), Assistant Scoutmaster - Troop 411, Orange Partnership for Young Children BOD, Truth Plaque Task Force, Camp Independence Volunteer for 40 plus years - Rutledge, GA, Orange County Jury Selection Team

Please enter the requested information.

Relevant Experience:*

Former Carrboro Board of Aldermen for 3 terms, Town of Carrboro Planning Board, Former OWASA BOD for 4 terms, NC League of Cities BOD for 3 years (first Black to serve), Sertoma Club Chapel Hill Historical Society - 2019 Community Treasure Irene Briggaman Lifetime Achievement Award

Reasons You Wish to be Appointed*

As a long-time resident of Carrboro and a former elected official; I will continue to bring a great deal of historical context to the Planning Board and associated projects. My perspective is unique because of my local government background, long term residency in Carrboro and my views as a Black male who grew up and led the charge during the turbulent civil rights era I have seen a lot of changes during my lifetime and it continues to be rewarding for me to serve.

We believe as a Town and as a Town Council that racial equity and diversity and inclusion are important. Please tell us your thoughts about this and why they are important not only in advisory board/commission work but also in all facets of local government and community work.*

Different races/ethnicities bring varying perspectives to the table because of their different lived experiences and values. This is especially important in local government/community work where we have to have all voices represented in every capacity possible in order to get the full picture. We must keep working towards this goal.

Have you ever served on any Town of Carrboro Committee or Board?*

If yes, which one(s)?

Planning Board

Yes

Are you currently serving on a Town Board or Committee?*



Yes



No

If yes, are you applying for a third consecutive term?*



Yes



No

If yes, please describe how you meet one, or more, of the following exceptions noted below.

I meet the diversity exception as a Black male.

After completing two full terms, a member must take off one year before applying for re-appointment to the same advisory board. However, a board member may apply to serve on another advisory board if he/she desires. The Board of Aldermen may make exceptions to this rule under the following circumstances: 1. To retain diversity on an advisory board; 2. A lack of applicants.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-94

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Public Hearing - The 203 South Greensboro Project -Approval of Principal Building Design Features

PURPOSE: The purpose of this item is to provide the Town Council an opportunity to receive an update on the design process and to approve the principal building design features identified to date.

DEPARTMENT: Town Manager, Planning, Finance

CONTACT INFORMATION: David Andrews, 919-918-7315, dandrews@townofcarrboro.org <<mailto:dandrews@townofcarrboro.org>>; Patricia McGuire 919-918-7327, pmcguire@townofcarrboro.org <<mailto:pmcguire@townofcarrboro.org>>; Arche McAdoo, 919-918-7439, amcadoo@townofcarrboro.org <<mailto:amcadoo@townofcarrboro.org>>;

INFORMATION: Town Council received a presentation on the status of the design development and principal design features on January 12, 2021. The information was referred to advisory boards and reviews were completed in early March; those reviews included:

Joint Advisory Board Review - March 4 - Appearance Commission, Environmental Advisory Board, Planning Board, Transportation Advisory Board

Recreation and Parks Commission - March 8

Arts Committee and Economic Sustainability Commission - March 10

Stormwater Advisory Commission - March 11

Comments from advisory boards are included as Attachment B. Comments from the Economic Sustainability Commission will be provided separately. The staff working group met on March 12th and materials samples were made available at Town Hall for Town Council review starting April 1.

The Design Development plan set has been completed and Barnhill is preparing a cost estimate. Presentation of the updated cost estimate is scheduled for May 11.

Derek Jones will provide an update on the design features. Approval of these design elements is needed at this time, interior, exterior, and outdoor plaza spaces, so that the Town can move swiftly into the construction

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

drawing phase of the project.

Barnhill staff may join to provide an overview of the construction management process, including staging and traffic management considerations.

FISCAL & STAFF IMPACT: To be determined in relation to project budget and cost estimations.

RECOMMENDATION: Staff recommends that the Town Council consider the principal design elements for approval and inclusion in the project.



SITE

SITE

MINUTES
March 4th, 2021

Members Present: Vickie Brown, James Scott, David Markiewicz, Jacquelyn Gist

Members Absent: Sharon Reilly

Staff Present: James Thomas- Planner/Zoning Development Specialist

I. Information about each member of Appearance Commission

David Markiewicz asked each member what their interest is in the Appearance Commission and what they bring to the board. Each member briefly talked about their interest in the Appearance Commission and what background they have to contribute to this board.

II. Discussion of Joint Review Item- 203 South Greensboro Street Project

Vickie Brown stated that she found the proposed building very attractive and stated that The ArtsCenter lost out in not being a tenant of this new building. She had a couple of concerns regarding the building: 1.) parking on the top level of the parking deck and whether the cars will be visible by adjacent houses. There should be some form of a wall to screen the cars. 2.) concerned about people falling off the top of the parking deck if there is not a wall etc. 3.) made the statement of older people and parents with kids making the walk from the parking deck to the library and how this is a long trek 4.) likes the building and integration of art 5.) likes redder tones to keep with Carrboro look.

James Scott stated that he like the look of the building and was concerned about the loss of parking spaces. He stated that he think the building fits into Carrboro.

There was the concern of all members of the Appearance Commission about the potential of all the glazing leading to birds being killed by hitting it- this needs to be addressed.

There were a couple of questions by members, those being: 1.) where is the exit from the parking deck? 2.) will there be any road improvements?

Staff stated that these questions would be asked of other staff and emailed to them.

Adjourn

II. Review of The ArtsCenter CUP at 315 Jones Ferry Road

There was a short discussion regarding review comments for The ArtsCenter. Vickie Brown made the statement that looking out at parking lot would be a negative situation. David Markiewicz stated that he liked the contemporary look of the building.

Without further discussion, the Appearance Commission voted to approve The ArtsCenter CUP as presented.

1st- Sharon Reilly

2nd- Vickie Brown

All in favor (Brown, Reilly, Scott, Markiewicz)

III. Review comments related to LUO Text Amendments Relating to Dimensional Requirements in the B-1(c) and B-1(g) Districts, Permit Requirements for Town-Owned and Operated Facilities, and Tree Canopy Coverage Standards

The Appearance Commission members requested the staff comeback with further information regarding this text amendment- mainly they were looking for what the reduction in tree cover would be. Staff said they would bring this information back at the March 4th meeting for further discussion.

IV. Election of new chair and calendar of set meeting for Appearance Commission

Vickie Brown nominated David Markiewicz to be the new chair the Appearance Commission. All members voted in favor of this (Brown, Reilly, Scott).

Additionally, the Appearance Commission voted that their regular calendar would be to hold meetings the 1st Thursday of each month at 7:00pm unless an additional special meeting was necessary.

Adjourn

Patricia J. McGuire

From: Charles Harrington
Sent: Tuesday, March 23, 2021 4:47 PM
To: Patricia J. McGuire
Subject: RE: 203 Design

Hi Trish.

From my notes, here are some that we received during the meeting:

- The building design is gorgeous.
- Love everything about it and how the local architectural elements were integrated into the design.

The other comments were more questions for Derrick and they included:

- Was the pandemic (or things learned from it) incorporated into the design? – You may recall that Derrick responded and focused some on air exchange systems, but that the pandemic did not heavily influence/alter the building design.
- There was a question about Orange County Skills Development and the services they provide.
- There was a question about whether or not similar models existed in other communities or if this was unique to Carrboro.
- There was a question about parking volume/demand, which you responded to.

That was it in terms of comments/questions. If you have any questions or need clarification, please let me know.

Thanks!

Charles

From: Patricia J. McGuire
Sent: Tuesday, March 23, 2021 4:40 PM
To: Charles Harrington
Subject: 203 Design

Dear Charles,

Would you have the Arts Committee comments on the 203 project to share? I'd like to pass along.

Hope I haven't missed in an email. If I have, my apologies.

Many thanks,

Trish

Patricia McGuire
Planning Director
TOWN OF CARRBORO
301 West Main Street

Carrboro, NC 27510
Office 919 918-7327
Pronouns: she, her, hers

Carrboro is planning to shape the future. Join us at [Carrboro Connects](#).
[The 203 Project](#) is back in action.



TOWN OF CARRBORO

Environmental Advisory Board

301 West Main Street, Carrboro, North Carolina 27510

COMMENTS

March 4, 2021

203 Project – Principal Design Elements

Motion was made by Blanco and seconded by Schalkoff that the EAB recommends that the Town consider the following comments:

- We would like to learn more about the energy efficiency measures planned for the building

Solar

- Explore solar leasing
 - This option would cost less and help the Town financially in the long-term due to energy savings
- EAB members would be happy to help the Town pursue this option
- Explore installing solar on a parking lot canopy
 - The cost of the structure should be included in the cost of the building
 - A solar leasing company could include this cost in a quote

Green Roof, Vegetation

- Combine green roof with solar
- Use native plants for green roof and detention spaces
- Label the plants with species names as an educational tool
- Design courtyard spaces to be more natural and have more vegetation
- We support the seed library concept

Water

- Water fountain with recycled water as a relaxing element to create a meditative area
- Public water fountain for refilling water bottles
- Kid-friendly water fountains inside and outside of the building
- Canine-friendly water fountains outside of the building

Transportation

- We support adding additional bicycle spaces
- Dedicated bicycle spaces inside the parking deck
 - Include charging infrastructure for electric-assisted bicycles
 - Include space for the library's bicycle loan program, including tricycle program for seniors
- Ensure that electric vehicle (EV) charging spaces are installed in 25% of the parking deck
- Ensure that at least 50% spaces in the parking deck are EV ready as the use of EVs in the Town

will increase over time, meaning:

- Installation of dedicated electrical circuit and underground conduit required to run electricity to EV charging spots

Building

- Window treatments and special types of glass to prevent bird collisions
- Support the use of recycled, locally-made brick
- Glad to see the Town is pursuing LEED Gold equivalent

Recycling

- Work with Orange County Solid Waste to discuss the installation of a designated space for recycling items such as batteries and plastic bags
- Ensure the building has adequate recycling bins for all recyclable items

VOTE:

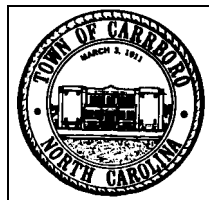
AYES: (4) Kaufman, Echart, Blanco, Schalkoff

ABSENT/EXCUSED: (1) Brandon

NOES: (0)

ABSTENTIONS: (0)

	3-4-21
For Kathy Kaufman, Chair	(Date)



3

TOWN OF CARRBORO

PLANNING BOARD

4

301 West Main Street, Carrboro, North Carolina 27510**MARCH 4, 2021 -- REMOTE (ZOOM) MEETING**

MEMBERS	GUESTS	STAFF
Catherine Fray, Chair	Derek Jones, Perkins & Will	Trish McGuire
Rachel Gaylord-Miles, Vice Chair	Eric Heidt, Perkins & Will	Tina Moon
Braxton Foushee, Vice Chair		Marty Roupe
David Clinton		James Thomas
Elmira Magnum	Gulden Othman	Zach Hallock
Eliazar Posada	Soteria Shepperson.	Laura Janway
Susan Poulton	Fabian Stepinski	Marsha Pate
Bruce Sinclair	Sara Pequeño (Indy)	
Rasam Tooloe		

Absent/Excused: (0)

Town Council Liaisons: Susan Romaine, Barbara Foushee, Jacquelyn Gist, Randee Haven-O'Donnell, Sammy Slade

I. WELCOME & INTRODUCTIONS

Catherine Fray opened the meeting at 7:33PM and asked advisory board chairs/staff liaisons to report on whether a quorum of their board was present. The Appearance Commission, Transportation Advisory Board, Environmental Advisory board had quorums. Members from the Economic Sustainability and Stormwater Advisory Commissions were also present.

Fray reviewed the agenda and encouraged participation. There were no changes to the agenda.

II. JOINT REVIEW**(A) Presentation on 203 Project**

Planning Director Trish McGuire presented information regarding the joint project with Orange County and the Town of Carrboro. The site location is 203 Greensboro Street. It will house the southern branch of the Orange County library, the Carrboro Recreation and Parks Department, the NC Works/Skills Development Center, and other nonprofit partners. There have been several public hearing which resulted in much input. The goal tonight is to provide a public update and an opportunity for attendees to ask questions.

Derek Jones, with Perkins & Will, the lead designer for the project for the town, made the presentation which included the overall project, building massing, floor plans, with concept/finishes, and exterior and interior design. The goal of the project is to be a hub of

activity supporting an environment for synergistic exchange with occupants. Jones provided visuals which detailed the layout, referencing the intended color and design palette, space definition, and example of the space use. The finishes were defined with attention to masonry, glass, and exterior meeting spaces. The northwest side of the building is the designated entrance with access to the parking deck and car drop off for patrons and bus routes within two blocks of the site. Overall, the interest is in weaving together an eclectic community space that includes the story of Carrboro via the steel, masonry, and wood. The use of natural colors is intended to create a feeling of warmth and creativity. The discussion of exterior details included stormwater installations, information relating to the roof overhang, alternative outside seating, and special, attention to ways to adjust to penetrating light/sun exposure. Jones provided a walk-through of the mock ups on the various levels focusing on the intention of space, offices, and terrace.

Fray opened the discussion to attendees and encouraged questions. Advisory board members offered the following questions and comments:

- What are the alternative modes of transportation to get patrons to the library? What is planned for bike shelters?
- The “softness” on the side of the residential neighbors is sensitive and attractive.
- Appreciation of the green roof/inclusion of solar was expressed by several attendees.
- What is the type/intent of the mechanical systems that was selected? How will it guard against COVID 19? Will it be a ventilation system sensitive to airborne diseases? Has the issue of filtering and absorption been analyzed?
- What is the overall cost per square foot?
- What products will be used for the exterior surfaces?
- Are there plans for a bus route and pull in to drop off patrons at the entrance?
- Is there be a concern for standing water encouraging mosquitos in the retention devices?
- Can there be more impervious surfaces incorporated in the exterior design?
- What type of lighting will be used for both interior and exterior?
- Noting the need of parking and interface with pedestrians, concerns about safety where cars pull in/out of parking garage were identified and discussed.
- Requesting confirmation if solar will be added to the roof? What does the \$100,000 cost of solar in the plan represent (from Jan 12th Town Council meeting)?
- Is tonight the last night for comments?
- What energy source is being proposed for the mechanical systems? Gas? Electric?
- What plant species are being considered for the exterior? Are they native species?
- What are the mechanics of the Stormwater detention?
- What view will neighbors see?
- Have the use of special needs patrons been included? Or other safety concerns?
- Concerns with birds flying into the exterior due to the amount of glazing were discussed as well as the costs/benefits of using “bird glass” to limit the issue.
- How will safety be addressed outside (promenade) to limit particularly as related to the interface of cars and bike/pedestrians?
- The creative design of water retention for reuse / recycling of stormwater run-off was noted.
- Concern over the need for parking/structured parking in the downtown.

- 1 • Disappointment that during a time of significant climate change the Town is planning a
2 facility that dedicates so much space/money to the parking garage and by association car use
3 at the site, particularly if it is contributing to the project being over the original budget.
4

5 Jones responded to questions clarifying the following:

- 6 ○ There are 36 bike spots which included 24 covered.
7 ○ Car drop off is convenient via street level pavement at the building entrance with an
8 overhang to protect from elements. There aren't designated bus stops for the project but
9 existing bus stops they are located within two blocks of the site.
10 ○ The mechanical system is good fit for project based on the amount of glazing and tightness of
11 the building envelope. HVAC systems designed to limit/prevent air borne bacteria
12 mitigation are installed in health care systems at three-times the cost of this budget.
13 ○ Lighting specialist are currently researching best use for project including safety and
14 illumination on the exterior. LED lights and canopy overhangs to divert heat.
15 ○ A surface material is being considered that is metal/veneer combination. The bricks are
16 made with 30% post-consumer material.
17 ○ Total cost may be around \$450/sq. foot but the cost is not usually calculated that way and
18 will be updated.
19 ○ Parking will have 173 spaces with renderings available but with him. Note: It is anticipated
20 that Maple Avenue will be converted to one-way as part of the project.
21 ○ Solar connections/receptors will be installed and ready for solar. There is a solar cover under
22 consideration for the top garage level. The cost of the solar purchase was estimated at
23 \$100,000 when presented at the Jan 12th Council meeting. They are continuing to refine the
24 costs for solar for the project.
25 ○ Trees are being selected for both the retention devices and terrace with sensitivity to native
26 species as appropriate. The retention devices do not hold the water (depth = 18"), they slowly
27 eliminate water accumulation and do not hold standing water (that would encourage
28 mosquitos). Trees are planted in the devices. Plants are often selected based on climate and
29 latitude of placement with native plants a priority.
30 ○ There are two entrances that easily provide appropriate surfaces for ADA requirements. In
31 addition, the benches serve as a block to cars so they cannot drive onto the
32 entries/promenade. In addition, murals can be added to back wall of the parking garage
33 facing Maple Avenue.
34

35 McGuire added that solar was not originally included as a project cost, but that capital
36 improvements planned for the town does include the addition of solar options which will most
37 likely apply to this project. In addition, sidewalk enhancements are planned and in the review
38 process for Roberson Street and South Greensboro.
39

40 To stay on the current schedule, moving into the development of construction documents, the
41 schematic design was approved in November. The project information is available online and
42 questions/concerns are encouraged and desired tonight. Since the project requires a zoning
43 permit, which does not involve a formal public hearing, there have been a number of public
44 hearings on the project throughout the process for public feedback and input. The goal is to start
45 into the construction phase in June/July 2021.
46

The Joint Review Portion of the Meeting ended at 9:16PM.

III. APPROVAL OF THE MINUTES

Clinton moved to approve the February 4, 2021 minutes as amended; Gaylord-Miles seconded the motion.

Gaylord-Miles moved to approve the February 11, 2021 minutes; Posada seconded the motion.

VOTE: AYES (9) Fray, Foushee, Gaylord-Miles, Clinton, Mangum, Posada, Poulton, Sinclair, and Tooloe.

NOES (0); ABSENT/EXCUSED (0);

The February 4, 2021 and February 11, 2021 Planning Board minutes were approved.

IV. OTHER MATTERS

(A) 203 Project

The Planning Board reviewed comments with more attention to the HVAC system, exterior plant selection, and sensitivity to crosswalks regarding future logistics, appropriate, exterior lighting, and the support for a solar installation. The Board was in agreement to end discussion.

McGuire encouraged all to attend the Comprehensive Plan community workshop scheduled for 7:00 PM on March 18.

(B) Update on Amendments Relating to G.S. Chapter 160D

Moon provided a short PowerPoint on the draft text amendments being prepared to bring the Land Use Ordinance into compliance with the adoption of G.S. Chapter 160D. The UNC-Chapel Hill School of Government has provided a number of guides to facilitate the process. The Council has received two updates to date. The first focused on six articles of the LUO: Article III, Administrative Mechanisms; Article IV, Permits and Final Plat Approval; Article V, Appeals, Variances, etc.; Article XVII, Signs; Article XX, Amendments; and Article XXI, Neighborhood Preservation. The second focused on seven articles: Article VI, Hearing Procedures for Appeals and Applications; Article VII, Enforcement and Review; Article VIII, Nonconforming Situations; Article IX, Zoning Districts and Zoning Map; Article X, Permissible Uses; Article XI, Supplementary Use Regulations; and Article XII, Density and Dimensional Regulations.

Moon reviewed notable changes:

- Advisory board members must be sworn in/take an oath of office before participating.
- Conditional use permits will be eliminated and replaced it with two levels of a special use permits.
- Conditional use rezonings will also be eliminated.
- There is more emphasis on the procedural differences between quasi-judicial decisions (permits) and legislative decisions (amendments).
- The conflict of interest provisions for legislative decisions is expanded and will affect advisory boards and elected officials.
- Provisions relating to posted notice for public hearings for permits and rezonings have been clarified.

- Provisions relating to vested rights have been updated and new language relating to permit choice have been added.
- Regarding advertising for things such as public hearings, notifications to communities will meet new guidelines such as mailing parameters and timelines for such notifications.
-

Moon offered an opportunity for questions. More information will be provided in the future.

V. ADJOURNMENT

Motion was made by Foushee to adjourn the meeting, and seconded by Posada.

The March 4, 2021 Planning Board meeting was adjourned by unanimous vote at 10:13 PM.

**TRANSPORTATION ADVISORY BOARD
MINUTES**

Thursday, March 4, 2021

BOARD MEMBERS PRESENT

Dave Pcolar, Chair
Elyse Keefe
Sarah Brown
Mark Alexander
David Swan
Cummie Davis
Lenore Jones-Peretto
Barbara Foushee, Council Liaison

STAFF PRESENT

Zachary Hallock

Guests Present

I. Call to order

The meeting was called to order around 9:20pm.

II. Approval of Minutes (February 18, 2021)

Pcolar motioned to approve the minutes, Brown seconded. Motion passed unanimously.

III. Action & Discussion Items

• The 203 Project Discussion

The TAB discussed the merits of charging for parking at the deck in the 203 project, especially because the costs associated were approximately \$36,000 per space, and while there was a disproportionate amount of parking the trade-off for the accessibility for people seeking the access the skills center shouldn't be overlooked. They also discussed that the need to charge for parking should be assessed in the future, as demand should dictate if it is needed.

The TAB discussed the merits of enabling future developments to buy-in to a few spaces in this deck to avoid having to build independent parking.

Access by bus, especially to the northern areas of Carrboro (which is currently underserved) and for kids who do not have a driver's license.

The TAB asked if there were any projections as to the turnover/utilization of the parking deck and how traffic control would be handled.

Hallock provided an overview of the TIA that was developed, the recommended roadway improvements (a NB right turn bay on S Greensboro St, south of Roberson St) and the limited impacts on the surrounding traffic signals.

The TAB suggested that the Town should target Roberson for sidewalk completion to connect the 203 project to the Libba Cotten, especially given that pedestrian routing to the site is challenging.

The TAB suggested looking into specific wayfinding for the 203 project so that walking routes to/from the project and associated parking would be clear. In addition to wayfinding, the Town should look at creating a safe and accessible path between the library and other Town facilities such as the Century Center.

The TAB raised concerns about what the sides of the parking deck would look like, in particular along Maple Ave; but indicated that the active ground floor facing Roberson Street is good design.

- **Bicycle Parking Ordinance Discussion**

Hallock provided an overview of the history of the draft bicycle parking ordinance.

Multiple TAB members indicated that the use codes in the ordinance were difficult to understand, Hallock to provide the appropriate references prior to future discussion.

The TAB discussed the merits of require more advanced or more secure bike parking and the tradeoffs associated with that.

The TAB expressed interest in establishing bike parking requirements based on a metric other than # of employees.

TAB members indicated the need for a comparison to other municipalities, Hallock to develop a comparison for the next conversation.

The TAB mentioned the need to measure bike parking usage in new developments to help track progress & identify if our standards are appropriate.

The TAB discussed the tradeoffs associated with have a 36" vs a 24" clearance for bike racks from adjacent walls. Noting that while more clearance made it easier to maneuver, but less clearance may allow for more bike parking in the same space. Ability to navigate could also be affected by type of bike.

TAB expressed interest in splitting the difference and just using 30" clearance. Hallock will look for other ordinances to compare between for future discussion.

- **Other Items**

Hallock provided an update on the Safe Routes to School Committee.

IV. Adjourn

The meeting was adjourned around 10:13 pm.

DRAFT

Patricia J. McGuire

From: Anita Jones-McNair
Sent: Tuesday, March 23, 2021 8:31 PM
To: Patricia J. McGuire
Subject: RE: 203 Design Review

Trish

Questions as a result of the presentation (generated by commission member)

Q1: What kinds of sustainable construction materials?

A1: all adhesives are low VOC, locally sourced, non-offgassing, recycled content; still trying to find exact brick, one of the bricks is 100% remanufactured from Salisbury, NC; a lot of passive moves with architecture, deep overhangs on S and W side; using electrichromic glass (can be programmed to darken at certain times of day, as low as 1% transmissivity, allows you to cut out glare and avoid shades); VRF mechanical system for HVAC system

Q2: Exterior appears to have textures that would support (or potentially encourage) rock climbing. Might be a bonus (or concern)?

A2: [No direct answer provided.]

Q3: How many square feet?

A3: About 50k sq ft of program area + parking

By comparison, Orange Co public library is 15k sqft gross (i.e., includes stairwell and wall thickness) and net (slightly less) areas

Q4: What sorts of feedback have been received from neighbors on design?

A4: In close to 20 public meetings, have not heard criticism or negative feedback, but some levels of concern about maintaining lower sound and light levels, want a nice vegetative buffer along that side; working to make that side a little quieter, fewer windows, etc.

Q5: What's intended on the Roberson side of building in comparison/contrast to Open Eye?

A5: To be modeled after Wall St in Asheville; could be extended to accommodate street festivals, for example.

Q6: When library is closed, will parking be available to local businesses (total of 173 spots)?

A6: That will be a Town Management question, but the design was "future-proofed" to accommodate something like that.

Q7: Nearest bus stop?

A7: Along Main St (buses not along Roberson most likely, but currently along Greensboro)

Anita

From: Patricia J. McGuire
Sent: Tuesday, March 23, 2021 4:39 PM
To: Anita Jones-McNair
Subject: 203 Design Review

Dear Anita,

Would you have the RPC comments/draft minutes on the 203 project to share? I'd like to pass along.

Hope I haven't missed in an email. I've looked! If I have, my apologies.

Many thanks,

Trish

Patricia McGuire

Planning Director

TOWN OF CARRBORO

301 West Main Street

Carrboro, NC 27510

Office 919 918-7327

Pronouns: she, her, hers

Carrboro is planning to shape the future. Join us at [Carrboro Connects](#).

[The 203 Project](#) is back in action.

TOWN OF CARRBORO

**STORMWATER ADVISORY COMMISSION – SUMMARY**Remote Meeting on March 11th, 2021, 6:30 pm (Zoom)

Commission Members		Candidates	Staff
John Cox (vice-chair)	Jeanette O'Connor (chair)	Margot Lester	Randy Dodd
Robert Dickson	Michael Paul	Satya Kallepalli (absent)	Heather Holley
Jacquelyn Gist (Council Liaison, absent)	Lauren Joca (absent)	Sarah Bloesch	Emily Cochran
			Patricia McGuire

Guests

W. Jordan Brewer – Kimley-Horn
 Derek Jones – Perkins & Will
 Allen Pratt – Perkins & Will

Administrative Matters

The SWAC approved the February minutes unanimously.

203 Project Review**In summary, the SWAC:**

- encourages the use of native plants over non-natives in the design, and specifically requests that *Liriope* be replaced with another ground cover plant
- commends the designers for their attention to stormwater control and notes that the design exceeds minimum requirements in several areas, but asks if there can be additional peak runoff control
- requests that the designers consider the following additional technologies:
 - Silva cells
 - Additional bioretention areas where possible
 - Various alternative roof configurations such as a green/blue roof over the entirety of the primary structure or a blue roof set back over part of the parking deck
 - Placement of a cistern, perhaps taking up one or two parking spaces on the 2nd and 3rd floors of the parking garage
- emphasizes that the Town should take this opportunity to lead by example and exceed minimum standards, align with climate resilience goals as well as help mitigate the Town's historic flooding problems
- notes that projected estimates for the precipitation "IDF" values (intensity, duration, frequency) used for stormwater design show an steep increase within the next 20 years, and ask that the Town consider projected storm events in planning for stormwater design rather than use the standard of NOAA Atlas 14 estimates
- asks the Town to consider supplemental financing to allow designers to go further, specifically/especially for peak runoff mitigation.

Details of Discussion

Randy Dodd provided a brief presentation regarding the 203 site, specifically pointing out that the land use is almost entirely impervious surface, and the current Land Use Ordinance provisions does not require treatment for preexisting impervious surfaces. He also showed the existing stormwater infrastructure, noting that water flows south and daylight at a stream off of S. Greensboro St. and Old Pittsboro Rd, and pointed out the location via Google Maps, with emphasis on the fact that there is a large volume of water that exits at this point and has provided issues for neighbors along Old Pittsboro Rd.

Trish McGuire added that the building will house two Orange County social services-related programs (OC Skills and Development, Library), and the Town of Carrboro will also have staff and programming in the building as part of the Recreation, Parks and Cultural Resources Department.

Derek Jones, shared a presentation regarding the project's design. Allen Pratt, landscape architect, described the plants that are planned throughout the exterior for stormwater control and visual appeal. Jeanette asked if a native plant could replace the *Liriope* that is planned as a groundcover; Allen agreed that it could. Allen also provided an overview of the bioretention cells that are planned along the sidewalk.

Jeanette asked who would be responsible for the maintenance of bioretention cells, green roofs, and other landscaping on the sites. Randy explained that the Town is looking into contracting with a State certified firm for SCM maintenance. Derek explained that there can also be a one-year (or longer) maintenance program as part of construction.

Jeanette asked if the vegetated planters could be wider (currently 7' wide), but Derek replied that the planters make up the remaining available space after satisfying street and sidewalk width requirements. Jeanette and Allen clarified the purpose and choices of various other plants that are planned on the site.

Jordan Brewer described the stormwater control plan for the site. There are 3 bioretention cells planned for treatment of roof drainage and at-grade runoff. Drained stormwater will flow beneath the sidewalk on the west side of the property, then connect with existing stormwater infrastructure in the southwest corner. Jordan showed results from the NCDEQ HyperTool and SNAP Tool to show volume reduction and nutrient reductions. The result will be that the first 1.5" of rain will be completely infiltrated within the bioretention areas.

Jeanette asked if the Town could require the project to control stormwater above and beyond requirements in the Land Use Ordinance. Randy said that the project is currently meeting the requirements of the ordinance, as well as providing additional annual stormwater volume control. Jordan stated that the stormwater control measures' greatest impact will be in annual volume reduction. Randy added that treating the first 1.5" of rainfall is also beyond the minimum requirements (1").

Mike asked if the site was designed with projected increases in rainfall intensity in mind. Jordan stated that the design was completed with current data that is available, not future projections. Mike asked if there are any additional measures we can take to maximize stormwater control, given the Town's historic stormwater issues, and if the Town relaxed other requirements, how far could the designers go to impact annual volume reduction.

Jeanette echoed Mike's question about whether or not the Stormwater Enterprise Fund could be used to subsidize stormwater control measures in projects. The design team offered that space constraints were important in considering additional treatment. Trish clarified that the width of Maple Avenue is already being reduced by 50% to accommodate the building footprint, but closing the street completely is not an available option at this time.

John Cox introduced the idea of Silva Cell installments with pipes running through it, though these areas do have considerable constraints. Allen said there is an area that may be appropriate for Silva Cells, along the south side of the property, however the cost may be a significant constraint. Jordan added that the Silva Cells could achieve a higher level of peak flow reduction.

Jeanette asked if it would be possible to place a green roof over the entirety of the primary structure, and place the solar panels over the parking deck. Trish and Derek said that they're still exploring possibilities for the roof infrastructure,

including the idea of a blue roof with a green roof on top of it. Derek and Allen discussed the need for depth in constructing a blue roof rather than a green roof, which affects multiple parts of the construction.

Robert asked if it would be possible to put a partial blue roof over the parking deck, which is already built to withstand substantial weight. Derek said that the height for the parking deck is at the maximum per LUO provisions as it is, so adding an additional roof would push beyond the limit.

Randy asked if the stormwater analysis was completed with the green roof in mind; Jordan said that the green roof was not included in the calculation, and he anticipates that analysis with refined measurements will show further stormwater control. Randy also asked if there are any possibilities for underground detention; Jordan said that they are constrained by rock on the north side, and seasonal high water table on the south side of the site.

Jeanette asked about the potential of stormwater features within the courtyard. Derek explained that initial plans included an underground storage tank and fourth bioretention area in the courtyard, but these plans were not feasible due to the seasonal high water table. John mentioned the availability of elevated planter box-style bioretention areas that could be above grade. Allen also mentioned that the area is quite confined so there is a need to keep the area as open as possible for movement, but that a Silva Cell could be a possibility in this area.

Mike asked how much irrigation is required with this landscaping; Allen said he hasn't done a calculation for irrigation. Mike asked if we could place a very large cistern for additional volume control that could also be used for irrigating the ground-level landscaping. Allen and Jordan said that they have studied this idea, specifically for the green roof, and found that it was a feasible idea but it is constrained by space and is still being studied.

Jeanette asked if the courtyard needs to be a paved plaza, or if it could be a garden with sitting areas and a walkway. Allen said that the required hardscaping space takes up most of the space anyway, and additional planted areas probably wouldn't add much in terms of stormwater control. Derek added that the area is also required to be open due to egress areas, and pointed out the three less obvious doors in the area that require means of egress.

Mike reiterated that he will send projected IDF curves to Randy and others. Jeanette thanked the designers for putting so much thought into stormwater control for this project.

The SWAC discussed options for allowing the developers to make additional improvements, such as requesting that the height limits not include solar cells or blue/green roof depth. Jeanette asked if this option could be placed on a future agenda. Trish stated that there are provisions for equipment on roofs, which are not structural, but blue/green roofs are closer to a structure on a building. However, there is some legislative leverage for making changes. She also stated that the SWAC can emphasize the preference for using Silva Cells and/or altering the height requirements for the site in its recommendation to Council.

Mike suggested placing a cistern on the first and second floors of the garage in one parking spot. The SWAC discussed the possibility of using stored rainwater for toilet flushing, but there may be constraints to doing so.

Randy and Heather reiterated that a major goal of Town-managed stormwater infrastructure is to use native plants in an attractive way to encourage the use of natives in stormwater control, as well as plants that are beneficial to pollinators and otherwise locally adapted and beneficial.

Adjourn

The meeting was adjourned at 8:31 pm.

**TRANSPORTATION ADVISORY BOARD
MINUTES**

Thursday, March 4, 2021

BOARD MEMBERS PRESENT

Dave Pcolar, Chair
Elyse Keefe
Sarah Brown
Mark Alexander
David Swan
Cummie Davis
Lenore Jones-Peretto
Barbara Foushee, Council Liaison

STAFF PRESENT

Zachary Hallock

Guests Present

I. Call to order

The meeting was called to order around 9:20pm.

II. Approval of Minutes (February 18, 2021)

Pcolar motioned to approve the minutes, Brown seconded. Motion passed unanimously.

III. Action & Discussion Items

• The 203 Project Discussion

The TAB discussed the merits of charging for parking at the deck in the 203 project, especially because the costs associated were approximately \$36,000 per space, and while there was a disproportionate amount of parking the trade-off for the accessibility for people seeking the access the skills center shouldn't be overlooked. They also discussed that the need to charge for parking should be assessed in the future, as demand should dictate if it is needed.

The TAB discussed the merits of enabling future developments to buy-in to a few spaces in this deck to avoid having to build independent parking.

Access by bus, especially to the northern areas of Carrboro (which is currently underserved) and for kids who do not have a driver's license.

The TAB asked if there were any projections as to the turnover/utilization of the parking deck and how traffic control would be handled.

Hallock provided an overview of the TIA that was developed, the recommended roadway improvements (a NB right turn bay on S Greensboro St, south of Roberson St) and the limited impacts on the surrounding traffic signals.

The TAB suggested that the Town should target Roberson for sidewalk completion to connect the 203 project to the Libba Cotten, especially given that pedestrian routing to the site is challenging.

The TAB suggested looking into specific wayfinding for the 203 project so that walking routes to/from the project and associated parking would be clear. In addition to wayfinding, the Town should look at creating a safe and accessible path between the library and other Town facilities such as the Century Center.

The TAB raised concerns about what the sides of the parking deck would look like, in particular along Maple Ave; but indicated that the active ground floor facing Roberson Street is good design.

- **Bicycle Parking Ordinance Discussion**

Hallock provided an overview of the history of the draft bicycle parking ordinance.

Multiple TAB members indicated that the use codes in the ordinance were difficult to understand, Hallock to provide the appropriate references prior to future discussion.

The TAB discussed the merits of require more advanced or more secure bike parking and the tradeoffs associated with that.

The TAB expressed interest in establishing bike parking requirements based on a metric other than # of employees.

TAB members indicated the need for a comparison to other municipalities, Hallock to develop a comparison for the next conversation.

The TAB mentioned the need to measure bike parking usage in new developments to help track progress & identify if our standards are appropriate.

The TAB discussed the tradeoffs associated with have a 36" vs a 24" clearance for bike racks from adjacent walls. Noting that while more clearance made it easier to maneuver, but less clearance may allow for more bike parking in the same space. Ability to navigate could also be affected by type of bike.

TAB expressed interest in splitting the difference and just using 30" clearance. Hallock will look for other ordinances to compare between for future discussion.

- **Other Items**

Hallock provided an update on the Safe Routes to School Committee.

IV. Adjourn

The meeting was adjourned around 10:13 pm.

DRAFT

THEN & NOW**2018****2020**

Building Area:	50,400 sf	52,780 sf
Open Site Area:	8,465 sf	5,183 sf
Occupiable Terrace Area:	2,564 sf	1,000 sf
Parking Count:	73	173



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-95

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Public hearing on the permanent closing of a portion of the Maple Avenue Right of Way

PURPOSE: The purpose of this agenda item is to receive public comment on a proposal to permanently close a portion of the Maple Avenue right-of-way.

DEPARTMENT: Planning, Public Works

CONTACT INFORMATION: Patricia McGuire 919-918-7327, pmcguire@townofcarrboro.org [<mailto:pmcguire@townofcarrboro.org>](mailto:pmcguire@townofcarrboro.org); Joe Guckavan, jguckavan@townofcarrboro.org [<mailto:jguckavan@townofcarrboro.org>](mailto:jguckavan@townofcarrboro.org); 919-918-7427

INFORMATION: Town staff reported in July 2020 that utilization of a portion of the right of way of Maple Avenue extension would likely be needed to accommodate the 203 Project building program, particularly the parking deck dimensions. On February 9, 2021, the Town Council adopted a resolution of intent to close a portion of the Maple Avenue right of way, reducing it in width from 40 to 20 feet, and set a public hearing for March 9, 2021. The public hearing was then rescheduled to April 6, 2021.

See
<https://carrboro.legistar.com/LegislationDetail.aspx?ID=4790209&GUID=F2527274-C217-4A74-96CB-8A4479D3F885&Options=ID|Attachments|&Search=resolution> and North Carolina General Statute 160A-299 for background information. The requirements for action include:

The council shall first adopt a resolution declaring its intent to close the street or alley and calling a public hearing on the question. Completed on March 2, 2021

- The resolution shall be published once a week for four successive weeks prior to the hearing. Completed - March 14, 19, 26 and April 2.
- A copy of the resolution shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records. Completed on March 24, 2021.
- A notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. Completed on March 24, 2021

Hearing Procedural Requirements and Subsequent Action

- At the hearing, any person may be heard on the question of whether or not the closing would be detrimental to the public interest, or the property rights of any individual.
- If it appears to the satisfaction of the council after the hearing that closing the street or alley is not contrary to the public

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

interest, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of reasonable means of ingress and egress to his property, the council may adopt an order closing the street or alley.

- A certified copy of the order (or judgment of the court) shall be filed in the office of the register of deeds of the county in which the street, or any portion thereof, is located.

- Any person aggrieved by the closing of any street or alley including the Department of Transportation if the street or alley is under its authority and control, may appeal the council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the city council, the council's decision to close the street was in accordance with the statutory standards of subsection (a) of this section and any other applicable requirements of local law or ordinance.

- No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

- Upon the closing of a street or alley in accordance with this section, subject to the provisions of subsection (f) of this section, all right, title, and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

- The provisions of this subsection regarding division of right- of-way in street or alley closings may be altered as to a particular street or alley closing by the assent of all property owners taking title to a closed street or alley by the filing of a plat which shows the street or alley closing and the portion of the closed street or alley to be taken by each such owner. The plat shall be signed by each property owner who, under this section, has an ownership right in the closed street or alley.

- The Town may reserve a right, title, and interest in any improvements or easements within a street closed pursuant to this section. An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest. The reservation of an easement under this subsection shall be stated in the order of closing. The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

- The Town may retain utility easements, both public and private, in cases of streets withdrawn under G.S. 136-96. To retain such easements, the city council shall, after public hearing, approve a "declaration of retention of utility easements" specifically describing such easements. Notice by certified or registered mail shall be provided to the party withdrawing the street from dedication under G.S. 136-96 at least five days prior to the hearing. The declaration must be passed prior to filing of any plat or map or declaration of withdrawal with the register of deeds. Any property owner filing such plats, maps, or declarations shall include the city declaration with the declaration of withdrawal and shall show the utilities retained on any map or plat showing the withdrawal.

FISCAL & STAFF IMPACT: Minimal associated with conducting the hearing. Cost of preparing a plat and recording action is estimated to be \$2,000.

RECOMMENDATION: Staff recommends that the Town Council consider adoption of Attachment A.

ORDER

Return to: Town of Carrboro
301 W. Main Street
Carrboro, NC 27510
Attention: Patricia McGuire, Planning Director

**TOWN OF CARRBORO TOWN COUNCIL ORDER CLOSING A PORTION
OF THE MAPLE AVENUE RIGHT-OF-WAY PURSUANT TO
N.C. GEN. STAT. 160A-299**

WHEREAS, a request was made to the Town of Carrboro Town Council to permanently close a portion of the Maple Avenue right-of-way, said portion being the western one-half of said right-of-way lying between Carr Street and Roberson Street.

WHEREAS, on April 6, 2021, the Carrboro Town Council conducted a public hearing after giving due notice thereof as required by North Carolina General Statutes Section 160A-299(a), at which all those wishing to be heard on the issue were given an opportunity to speak.

NOW, THEREFORE, the Town Council find as follows:

1. It appears to the satisfaction of the Town Council that closing the west half of the right-of-way known as Maple Avenue, adjacent to the Town-owned property at 203 South Greensboro Street and lying between Carr Street and Roberson Street, is not contrary to the public interest; and
2. No individual owning property in the vicinity of the portion of the right-of-way to be closed will be deprived of a reasonable means of ingress and egress to their property.

Based on the foregoing findings, it is ORDERED that the western one-half of the right-of-way known as Maple Avenue from its intersection with Carr Street to its intersection with Roberson Street shall be closed in accordance with North Carolina General Statutes § 160A-299(a) effective upon the recording of this Order in the Orange County Register of Deeds Office.

BE IT FURTHER ORDERED, that this Order and the related map shall not be finalized and available for recording in the Orange County Register of Deeds until 24 hours after the approval of this Order AND that if any written public comments are received during that time, the Carrboro Town Council shall reconvene to consider the comments and adopt a new Order, consistent with S.L. 2030-#, SB 704.

WHEREFORE, the foregoing Order was put to a vote of the members of the Town of Carrboro Town Council on the 6th day of April, 2021, the result of which vote were as follows:

Attachment A, Page 2

Ayes: _____

Noes: _____

Absent or Excused: _____

Dated: _____

Cathy Dorando, Town Clerk

Perkins&Will

Legacy Tower
411 W Chapel Hill Street, Suite 200
Durham, North Carolina 27701
1919.433.5300
1919.433.5301
perkinswill.com

CONSULTANTS

LANDSCAPE ARCHITECTURE

Perkins & Will

411 West Chapel Hill, Suite 200,
Durham, NC 27701
CIVIL

Kimley-Horn

421 Fayetteville Street, Suite 600,
Raleigh, NC 27601
STRUCTURAL

Lynch Mykims

415 Hillsborough Street, Suite 101,
Raleigh, NC 27603
MEPPP

Engineered Design Inc.

1151 SE Cary Parkway, Suite 200,
Cary, NC 27518
THEATER DESIGN

Theater Consultant Collaborative

6325 Old NC 86

Chapel Hill, NC 27516

AUDIO VISUAL AND ACOUSTICS DESIGN

The Sexton Group/NV5

3300 Regency Parkway

Cary, NC 27518

PROJECT



TOWN OF CARRBORO/
ORANGE COUNTY/ WCOM

203 South Greensboro Street,
Carrboro, NC 27510

PROGRESS SET FOR REVIEW ONLY
THESE DOCUMENTS ARE FOR
DESIGN REVIEW AND NOT
INTENDED FOR CONSTRUCTION,
BIDDING, OR PERMIT PURPOSES.
THEY WERE PREPARED BY OR
UNDER SUPERVISION OF:
W. JORDAN BREWER
LICENSE NO. 039196

KEYPLAN

ISSUE SHEET

PRELIMINARY

DO NOT USE FOR CONSTRUCTION

MARK	ISSUE	DATE
Job Number		830608.000

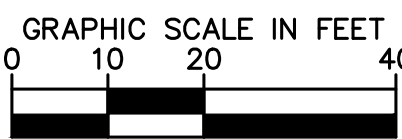
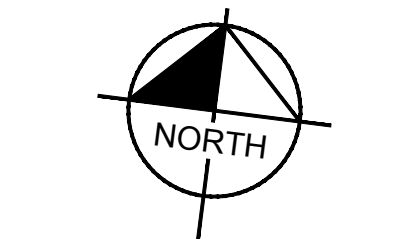
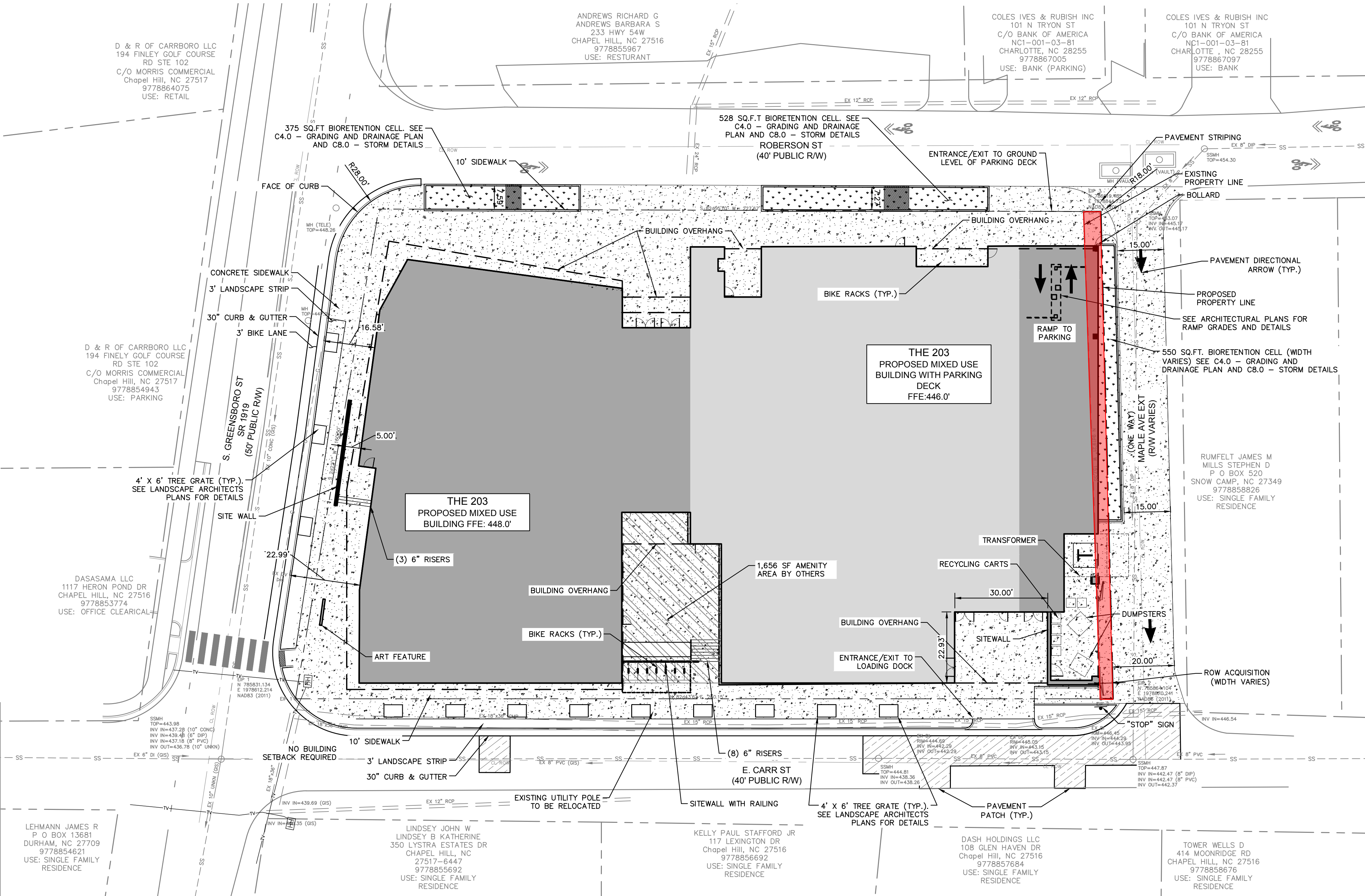
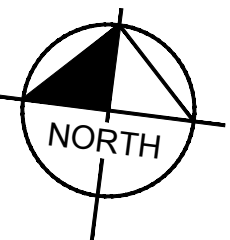
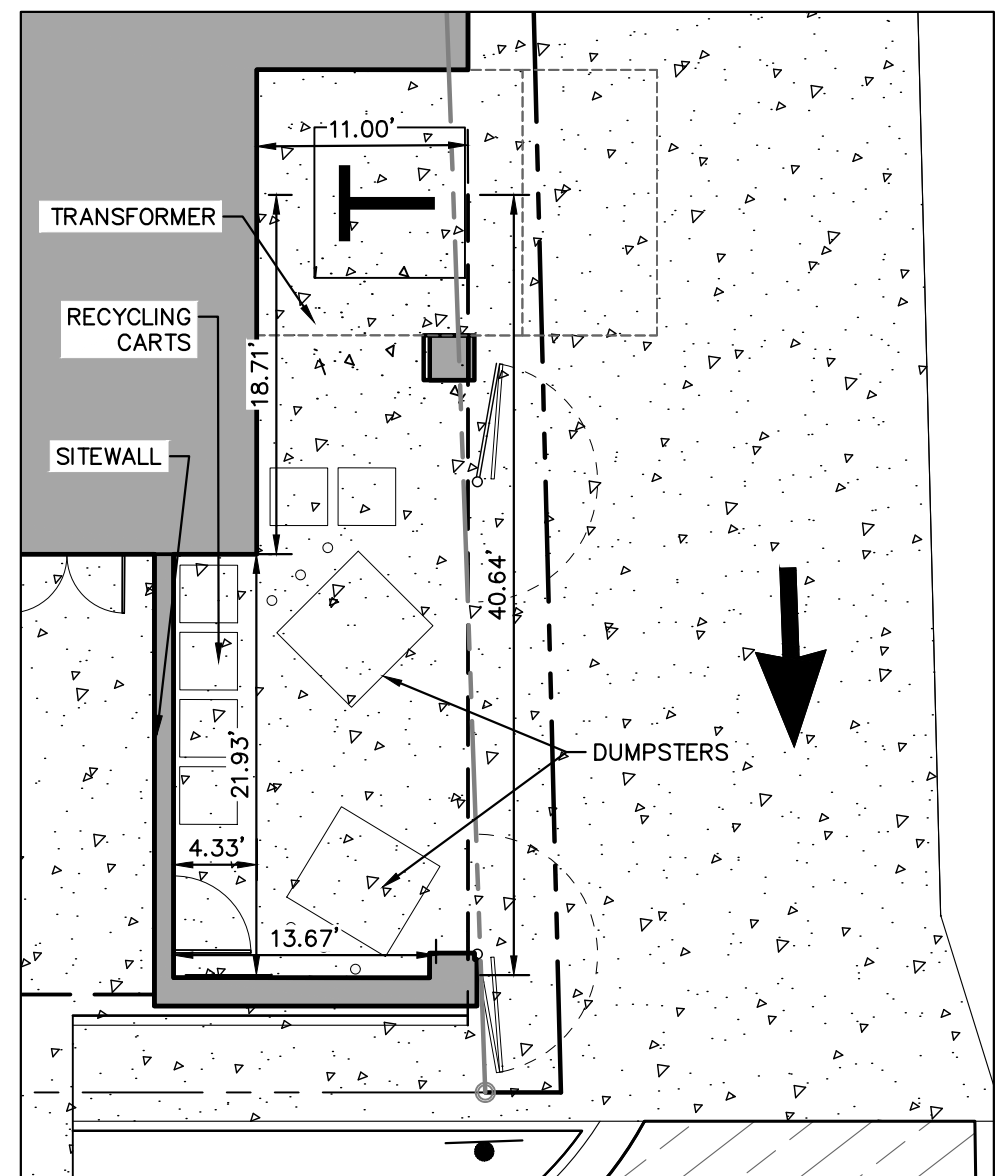
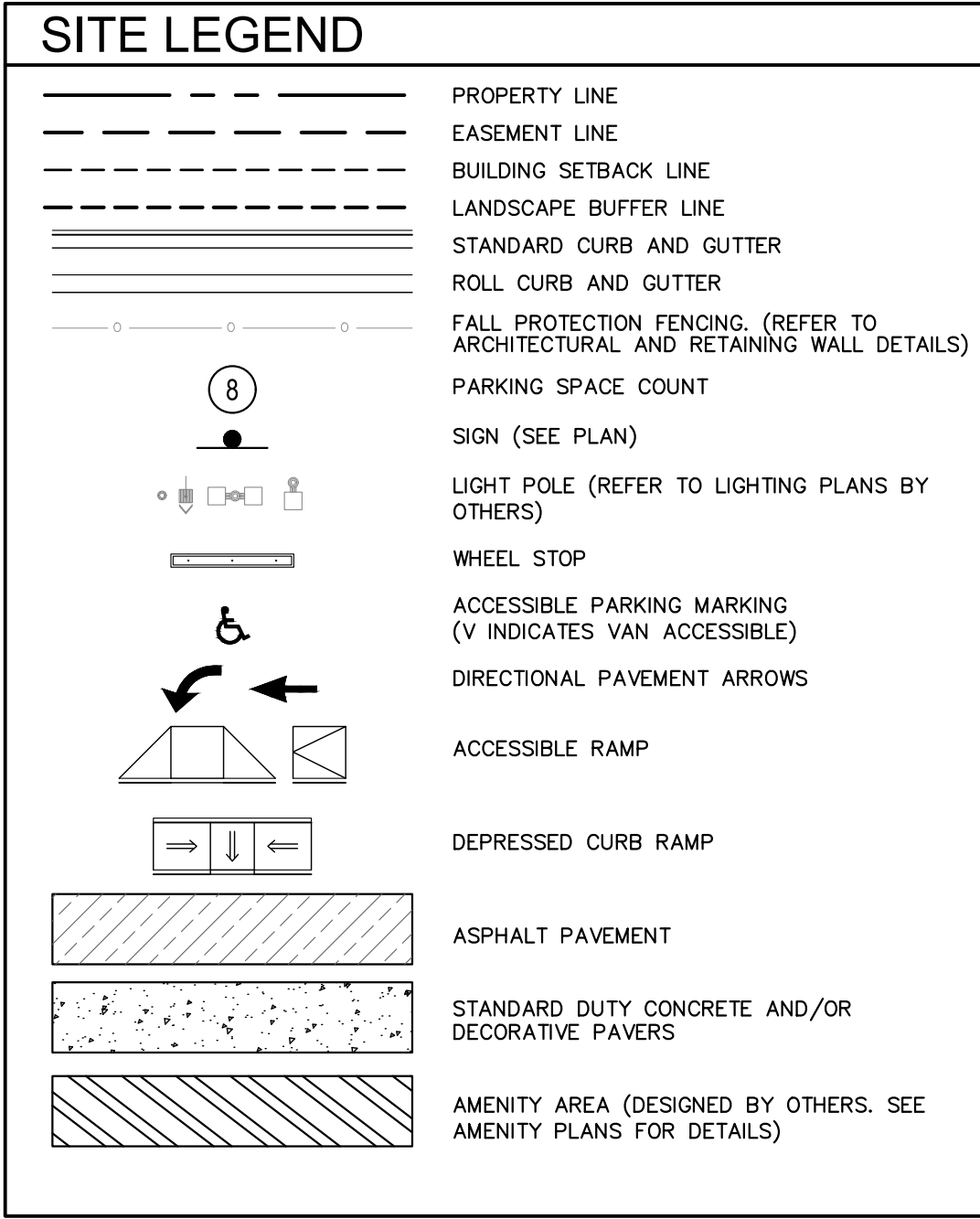
TITLE

SITE PLAN

SHEET NUMBER

C3.0

© 2020 Kimley-Horn
FIRM# F-0102



LIMITS OF DISTURBANCE:
1.25 AC

IMPROVEMENTS AND TOPOGRAPHICAL INFORMATION TAKEN FROM:
SURVEY PROVIDED BY SUNGATE DESIGN GROUP, P.A., 905 JONES
FRANKLIN ROAD, RALEIGH, NC 27606, 919-859-2243, DATED 7/20/18,
REVISED 8/19/20.

PLANS TITLED "ROBERSON SQUARE" BY SGI TECHNICAL SERVICES, 200
NORTH GREENSBORO STREET, SUITE B-13A, CARRBORO, NC 27510,
919-942-7612 DATED 11/20/07.

CURRENT AVAILABLE AERIAL INFORMATION OBTAINED FROM TOWN OF
CARRBORO/ORANGE COUNTY GIS DATABASE.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-65

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Transportation Projects Update

PURPOSE: The purpose of this agenda item is to provide the Town Council with information about the status of various transportation projects around Town.

DEPARTMENT: Planning

CONTACT INFORMATION: Zachary Hallock, 919-918-7329, zhallock@townofcarrboro.org <<mailto:zhallock@townofcarrboro.org>>; Tina Moon, 919-918-7325, cmoon@townofcarrboro.org <<mailto:cmoon@townofcarrboro.org>>; Trish McGuire, 919-918-7327, pmcguire@townofcarrboro.org <<mailto:pmcguire@townofcarrboro.org>>

INFORMATION:

The Transportation Projects Update memo can be found as Attachment A.

A summary of all bike-ped data collected by the ITRE automated counters (Dec 2014 through Nov 2020) on the Libba Cotten Bikeway and Old NC Hwy 86 can be found as Attachment B.

A draft of the Town Code Amendments associated with Bike Share, E-Bikes and other micromobility devices have been developed by staff and can be found as Attachment C. These amendments are still in development and will be subject to additional internal review by other Town Staff prior to bringing back a final version for consideration by Council. Any feedback recieved can help inform the final version.

FISCAL & STAFF IMPACT: There is no impact associated with receiving the report.

RECOMMENDATION: Staff recommend that council receive the report and provide additional feedback on the NC 54 crossing locations, potential bike share pilot hub locations, and draft bike share Town Code amendments.



TOWN OF CARRBORO
NORTH CAROLINA

TRANSMITTAL

PLANNING DEPARTMENT

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

To: David Andrews, Town Manager
Mayor and Town Council

From: Zachary Hallock, Transportation Planner

Date: April 2, 2021

Subject: Update on Transportation Projects

Summary

In September 2015, ([Town of Carrboro - File #: 15-0325 \(legistar.com\)](#)) staff began providing regular updates on transportation projects. This document is intended to provide the most recent update the Town Council on the status of a number of ongoing transportation projects. These include NCDOT managed projects, Town managed projects, bicycle projects & planning, development projects, pedestrian safety projects, and transit projects. The last update was provided on October 13, 2020; agenda materials can be found at [Town of Carrboro - File #: 20-367 \(legistar.com\)](#)

Detailed information was also presented at that meeting for Laurel Ave Parking, Traffic Calming Projects, Unpaved Streets Speed Limits, and Bike Share. Agenda materials can be viewed at [Town of Carrboro - File #: 20-368 \(legistar.com\)](#).

NCDOT Projects

Estes Drive/North Greensboro Street Roundabout Project (U-5846)

The project is ongoing. Staff remains in close contact with NCDOT and will continue to post updates on the Town website ([Estes Dr. & North Greensboro Roundabout | Carrboro, NC - Official Website \(townofcarrboro.org\)](#)). More urgent public information will be provided via news flashes.

[Update] As of March 2021, work continues on the storm drain pipe and associated boxes.

Merriitt Mill/Franklin/E Main/Brewer intersection project (U-5847)

This project is completed as of February 2020. For more information about upcoming changes to E Main Street and this intersection, see the East Main Street Restriping Plan.

NC 54 West – Corridor Study and TIP Projects

The final project report was completed as of December 20, 2019.

More information on the study may be found at:

[Town of Carrboro - File #: 19-321 \(legistar.com\)](#)

The purpose of the study was to evaluate existing travel patterns along the NC 54 corridor from Carrboro to I-40, to help determine the need for and appropriate types of improvements, information that would be used to identify possible transportation projects for submittal in the NCDOT prioritization process for state/federal funding. To date, the DCHC MPO Board has decided not to assign points on a proposed project to widen NC 54 in the SPOT process, to allow Carrboro and Orange County an opportunity to reach consensus on a preferred cross section. Operational improvements to NC 54 at Orange Grove Road (R-4821B) have been completed. In August 2020, staff were informed via the DCHC MPO Technical Committee that the operational improvements along NC 54 from Old Fayetteville Road to W Main St (STIP# U-6071), has been delayed six years as a result of the changes HB 77 made to NCDOT finances. HB 77 delayed some projects by extending currently programmed projects over a longer period of time.

[Update] Staff recently learned that NCDOT has engaged a consultant to begin developing possible design options for U-6071; updates will be provided as additional information becomes available.

NC 54 Bike/Ped Safety Study: Old Fayetteville Road to Manning Drive (Chapel Hill)

The final project report was completed as of December 31, 2019. Project documents can be viewed online via the links below.

[NC 54 Bike-Ped Safety Study Final Report](#)

[NC 54 Bike-Ped Safety Study Appendices](#)

[Update] Town staff are currently working with NCDOT Division 7 to prepare applications for Highway Safety Improvement Program (HSIP) funds for two signalized crossing locations: NC 54 @ Westbrook Drive and NC 54 @ Abbey Lane. NCDOT is considering two-phase traffic signals at these locations, which would stop traffic on NC 54 to allow people walking and biking to cross the street, as well as allow for left turn movements. The 2017 Orange County Transit Plan includes funding for a HAWK (High-intensity Activated Walk) signal, which would stop traffic for people walking and biking to cross but would provide a separate signal for left turn movements. Staff are working to confirm that the Orange County Transit Plan funds can be used to supplement NCDOT's application for HSIP funds.

Carrboro staff are in the process of coordinating with NCDOT, Town of Chapel Hill and Chapel Hill Transit to identify funding sources for these improvements in Carrboro, along with the crossing location at Kingswood Apartments in Chapel Hill.

Town Projects

Laurel Avenue Parking

Information about the conditions on Laurel Ave, with regard to on-street parking was provided to the Council on October 13, 2020. More information can be found at [Town of Carrboro - File #: 20-368](#)

[Update] Staff were directed to research the conditions on Short Street in Chapel Hill, which is also fairly narrow, but still has on street parking. The Carrboro Fire Department has expressed concern with the use of fire apparatus on narrow streets with prevalent on-street parking. The Chapel Hill Fire Department reported that the on-street parking on Short Street had been in place for a very long time; it is not expected that a similar condition could be created under the current fire code.

Starlite Drive Traffic Calming

Information about the Starlite Drive traffic calming project was last provided to council on October 13, 2020. More information can be found at [Town of Carrboro - File #: 20-368](#)

[Update] Staff sent out a mailing to residents of the Lloyd-Broad neighborhood, seeking feedback on a concept plan developed for Starlite Drive designed to address the concerns discussed at the neighborhood meeting that was held on March 7, 2020. There were multiple ways by which residents could provide feedback:

- Return the comment form in the mailing using an envelope address to Town Hall which included postage
- Scanning/emailing the form to Town Staff
- Attending a public meeting held over Zoom on Saturday, February 20
- Commenting on the online concept plan available in Remix
- Calling Town Staff and setting up a time to discuss the concept plan

Ten responses were received from residents: six mailed responses, three emails, and one phone call. Based on the feedback received, support for the proposed modifications were:

- 90% of responses were either “Somewhat Supportive” or “Highly Supportive” of installing a speed table
- 70% of responses were either “Somewhat Supportive” or “Highly Supportive” of installing curb extensions with paint and delineators at the curves in Starlite Drive
- 90% of responses were either “Somewhat Supportive” or “Highly Supportive” of painting a centerline through the curves on Starlite Drive

Staff are working to begin final design for this section. Additional feedback has been received requesting an assessment of possible traffic calming measures for the entire Lloyd-Broad neighborhood.

Barred Owl Creek Traffic Calming

Information about traffic calming for the Barred Owl Creek neighborhood was last provided to council on October 13, 2020. More information can be found at [Town of Carrboro - File #: 20-368](#)

[Update]: Staff are in the process of finalizing a plan to take back to the residents of that neighborhood, pending conversations with the Fire Department regarding the fire code.

Unpaved Roads Speed Limits

Information about changing the speed limits on unpaved roads was last provided to council on October 13, 2020. More information can be found at [Town of Carrboro - File #: 20-368](#)

[Update] Staff sent out a mailed survey to gather feedback from residents on the unpaved streets in Town. Once sufficient feedback has been received to identify a preferred speed limit, Town Code amendments to change the speed limit (by individual streets) will be brought back to Council for consideration at a later date. The unpaved streets in Town, that will be surveyed for local input include:

- B Street
- Bert Street
- Broad Street
- Colson Street
- Deer Street
- Dillard Street
- Dove Street
- Goldston Drive
- Hillcrest Avenue
- Hoisery Street
- Hunter Place
- Parker Street
- Rainbow Drive
- Watters Road

Bike Loop Detectors (U-4726-DF)

The Town has advertised the bike loop detector project (the installation of bike loop detectors at North Greensboro at Weaver and Main and Main at Roberson and at the intersection of Poplar at NC 54) twice, first in October 2017 and again in July 2019, without receiving any bids. Staff is working with NCDOT to determine if there may be other ways to move forward with the project, such as an add-on to the resurfacing project for East Main Street, or if the installation could be performed by NCDOT's traffic engineering division.

[Update] In December, Town staff met with NCDOT to discuss the possibility of incorporating the bike loop detectors as part of the East Main Street project—either the resurfacing or the restriping installation and associated signal work. NCDOT advised against combining the federally funded bike loop project with the state funded resurfacing project because of the different construction standards and the rigorous administrative requirements of federal projects.

See the E Main Street resurfacing section for more information. Staff will continue to seek ways to complete the bike loop project.

Homestead Road-Chapel Hill High School Multi-Use Path (U-4726-DE)

The project is completed.

Morgan Creek Greenway (EL-4828A)

The Morgan Creek Greenway is a multiphase greenway system connecting the neighborhoods around Smith Level Road to University Lake. The conceptual plan included two potential alignments for Phase 1: a preferred alignment and an alternate alignment. Challenges associated with the stream crossing intended for the preferred alignment for Phase 1 led the Town to advance a variation of the alternate alignment. This is approximately half-mile of paved multi-use path beginning at the cul-de-sac at Abby Lane, extending to the Smith Level Road Bridge, running under the bridge to connect with a future multi-use path in Chapel Hill, and beginning again, along the south side of Morgan Creek to a turnabout point before the soccer field at the Berryhill Subdivision. Phase 1 of the Morgan Creek Greenway was advertised in June 2019 and re-advertised in August 2019. Two bids came in higher than expected and, per NCDOT procedures, bids are not acceptable if higher than 10-percent above the Engineer's estimate.

[Update] As part of a November 17, 2020 project update ([Town of Carrboro - File #: 20-423](#)), staff reported that the Town Engineer, Sungate Design, had conducted a feasibility analysis of the potential Phase 1 crossing and determined that a pedestrian bridge could be permitted, allowing the Town to return to the original preferred alignment for the project, if preferred. Staff was directed to proceed with the original alignment and to refer the item to the Greenways Commission to host a meeting with neighboring residents to discuss the status of the project. The Greenways Commission meeting was held on December 7th, 2020. Staff is working with the Town Engineer to prepare responses to questions from the meeting, including determining the feasibility of the remaining crossings in the greenway system, and seeking additional funding for the redesign costs.

Jones Creek Greenway (C-5181)

Advertisement for engineering services, selection of Wetherill Engineering, and approval of the firm & cost estimate by NCDOT was completed in the fall of 2018. The contract was executed before the end of 2018 and a project kickoff meeting was at the end of January 2019. During this kickoff the public input process was established to include open house input sessions at 15%, 30%, and 60% design. At the beginning of March 2019, planning staff facilitated an internal staff discussion with the police department and school district to discuss issues related to greenway safety. The third public hearing for the project, at 65% design, was held on September 24, 2019. After further assessment for the greenway alignment and discussions with the County with regard to a potential staging areas and right of entry, updated plans, CE documents and environmental permit applications will be submitted to NCDOT in the near future. Staff continues to work with NCDOT to determine the status of CMAQ funds earmarked for construction.

Feedback from ITRE has indicated that if we wish to identify a location for a continuous bicycle-pedestrian counter along this greenway, we would be better suited waiting until construction is completed.

[Update] Plans are approaching 90% design, and staff are working with the design consultant to begin the process for acquiring easements as part right-of-way certification. Staff continues to work with NCDOT on the necessary reviews and approvals.

Estes Drive Corridor Study and Bike/Ped Improvements (EB-5886)

This project to consider improvements to Estes Drive from N Greensboro St to the Town Limits was submitted in SPOT 4.0 and accepted to the State Transportation Improvement Program (STIP). Due to the current NCDOT budget crisis, the DCHC MPO has been asked to reprogram the years identified for projects in the STIP, as the previous funding schedule has been spread out over a longer period of time. Staff are working with NCDOT to determine how or if the schedule for this project will be pushed back, and will coordinate with Chapel Hill to ensure consistency between the jurisdictions. More information will be provided at a later date.

[Update] In the fall of 2020, NCDOT asked local governments to provide updated project timelines for locally administrated projects (LAP) delayed from NCDOT's funding suspension. Town staff worked with DCHC MPO to revise the schedule for this project, which is now design in FY 2022, ROW in FY 2024 and construction in FY 2026.

South Greensboro Street Sidewalk (C-5650)

The Town entered into a municipal agreement from NCDOT in the summer of 2018 and a contract with Ramey Kemp Associates (RKA) in 2019 for design services. The scope of work for RKA also include a capacity analysis for the southern section of the corridor from the roundabout at South Green to the bridge over Morgan Creek. The 15% design plans have been completed, and planning staff have coordinated review between Town departments, NCDOT, and external agencies to garner feedback on the design.

[Update] Public meetings were held remotely on the conceptual plan at 30% design on Thursday, January 28th and Saturday, January 30th. Staff have compiled feedback from these meetings and are currently working with the design engineer to develop responses to these comments. As the project moves forward, Town staff will work with the design engineer to incorporate the safety recommendations identified in the NC 54 Bike-Ped safety study, and transit stop improvements identified by Chapel Hill Transit where feasible. More information can be found on the project webpage at: <http://townofcarrboro.org/2303/S-Greensboro-Sidewalk>

West Main Street Sidewalk

As part of the development of the 2017 Durham and Orange county transit plans, the Town submitted a capital project request for funding to construct a sidewalk along West Main Street between Fidelity Street and Poplar Street. Staff requested delaying the funds for the Main Street

project to a later fiscal year in order to receive funds for the South Greensboro Street sidewalk in an earlier fiscal year. A schedule for moving forward with the West Main Street project has not yet been determined.

Barnes Street Sidewalk (EB-5890) & Jones Ferry Road Sidewalk (EB-5880)

The Barnes Street and Jones Ferry Road sidewalk projects have been programmed for funding in the 2019-2029 STIP. Staff has requested that the start date of these two projects begin in FY 2022, anticipating a schedule of design in FY 2022, ROW acquisition FY 2023 and construction FY 2024. The proximity of the two projects offers an opportunity to seek one contractor to construct both projects if such an arrangement provides an economy of scale benefit. The DCHC MPO is working with NCDOT and local governments to update the schedule for locally administrated projects (LAP) in the STIP, which have been delayed by the suspension.

[Update] In the fall of 2020, NCDOT asked local governments to provide updated project timelines for locally administrated projects (LAP) delayed from NCDOT's funding suspension. Conversations with NCDOT and DCHC MPO staff have altered the schedule for both projects, which is now design in FY 2023, ROW in FY 2024 and construction in FY 2025.

East Main Street Restriping Plan

Draft pavement marking plans were approved by NCDOT in April 2020 and we were informed of the need to prepare additional plans construction the necessary signal modifications that would be required due to the pavement marking changes. Staff are working with Stantec and NCDOT to finalize the pavement marking plans so that work on the signal timing plans can begin on schedule. The resurfacing for this project is anticipated to occur in the summer of 2021.

[Update] Final pavement marking plans have been submitted to NCDOT and signal plans are nearing completion and are expected to be submitted in time to meet necessary deadlines for NCDOT review and approval. As part of this process, there are some pavement markings (referred to as Standard Markings) that will be installed by NCDOT's resurfacing contractor. These include things like travel lane lines, bike lane markings, and crosswalks. Other work such as specialized markings (bike boxes, conflict markings, and green thermoplastic) and required traffic signal modifications will need funding and installation to be handled by the Town through a separate bidding process. Staff will bring a request for additional funding to the Council as part of approval of a contractor for construction. While the idea of incorporating the federal bike loop detectors into a single project with the state restriping project has proved problematic, Town staff are continuing to explore the feasibility of advertising the two separate projects at the same time with the hope that the combined cost of the two projects may increase the likelihood of receiving acceptable bids.

Coordination with NCDOT and OWASA has revealed that a water line replacement will be needed under the section of E Main Street where the resurfacing is to occur. Because of this, NCDOT is considering delaying the resurfacing of E Main St, as resurfacing the street prior to the water line replacement would result in tearing up a newly completed resurfacing. As to whether NCDOT would delay the entire resurfacing or just the portion impacted by the water

line replacement has yet to be determined. Staff will provide an update on the timing of the resurfacing and the water line replacement as more information becomes available.

Jones Ferry Road – Protected Bike Lanes

Town staff have been working with NCDOT Division 7 and Division of Bike/Ped Transportation to identify potential treatments for protected bike lanes on Jones Ferry Road, an interest identified as part of the Spot Safety Improvement Project for the corridor. To date, discussions with Public Works and NCDOT have focused on concerns over cost, maintenance, snow clearance, and transit operations. Based on feedback received from NCDOT during the Bike Plan Update, staff have currently identified a set of potential treatments which could be used as different test areas along the corridor. Town Staff met again with NCDOT Division 7 and NCDOT Bike/Ped on January 27th, 2020 to finalize test zones along the corridor as part of a pilot project. This pilot is expected to last at least one year and will include data collection of vehicle volumes, speeds, and bicycle volumes (before, during, and after the pilot); public input sessions; and survey to gauge public perceptions of safety and preferred treatment.

Recent communication with NCDOT Division 7 has indicated that, if desired, the Town could proceed with a protected bike lane installation using standard white delineator poles for vertical separation, installed through encroachment agreement. Staff are currently developing an encroachment agreement application, with the goal of starting the pilot before the end of this fiscal year.

[Update] Staff submitted an encroachment agreement to install the protected bike lane pilot project along Jones Ferry Road to NCDOT Division 7. Pending their review and approval, this pilot project could be installed at the beginning of the summer with the goal of being in place for one year. Staff anticipate collecting supporting data such as motor vehicle volumes/speed, bike/ped counts, and feedback from people who travel along the corridor regardless of mode. Additional information about this project will be provided as it develops.

Bicycle Projects and Planning

Bicycle Transportation Plan Update

On September 22nd, the Council set the public hearing to consider adoption for October 27th, this item was also referred to the Planning Board, Transportation Advisory Board, and Environmental Advisory Board for comment. A presentation was made to the Joint Advisory Boards on October 1st.

[Update] Council adopted the Updated Bicycle Plan on January 12, 2021. Town staff are working with the MPO to include this the projects identified in the plan in the DCHC MPO's Comprehensive Transportation Plan (CTP) and the DCHC MPO/CAMPO 2050 Metropolitan Transportation Plan (MTP) that is currently in development. Town staff also expect to work with the Transportation Advisory Board to provide recommendations on prioritizing some of the smaller projects identified in the plan for implementation by the Town.

Bicycle Friendly Communities Application

Staff will use information from the BFC scorecard and priority projects identified in the Updated Bike Plan to better situate the Town for the next application for the BFC program in 2023.

Bike Share

Staff have been continuing to coordinate with both the Town of Chapel Hill and Gotcha (the current bike share provider for UNC) to develop a potential pilot program to operate in both towns. Additional information as to the specifications of the program have been provided as a separate agenda item.

[Update] Staff from UNC and the Towns of Carrboro and Chapel Hill met with leadership from Bolt, the bikeshare/micromobility company which has acquired Gotcha. Discussions indicated that a pilot project as previously discussed could still be implemented, depending on the Town's interests. This pilot would run through the end of UNC's current contract with Bolt/Gotcha, in May 2022.

As another option, the Town of Chapel Hill and UNC have begun discussion with Bolt/Gotcha about relocating a currently underutilized bikeshare hub, and associated bikes, from its location on campus to the intersection of W Franklin St and Church St. The Town of Chapel Hill is developing a licensing agreement with Bolt/Gotcha to allow them to place a bikeshare hub on Town property. This would help expand the service area of the existing bikeshare system, with the hopes that it would increase utilization of the existing bikes. If desired, Carrboro can consider relocating the bikeshare hub that is located at the end of the Libba Cotten (as the UNC building there is now vacant). Possible locations to consider might include the parking lot at Town Hall, the Town-owned parking lots near the Century Center, or the on-street parking on E Weaver St. As with the e-bike pilot mentioned previously this program would only be expected to run through the end of UNC's current bikeshare contract in May 2022.

Multiple Town Code amendments are needed so that a bike share system can be properly regulation. This includes creating definitions for bike share (and other shared devices), their operators (referred to as Shared Active Transportation Systems), E-Bikes, and E-Scooters. Other Town Code amendments would create regulations as to where these devices are allowed and prohibited to operate, and set speed limits for shared devices (and E-bikes/E-scooters) on greenways as well as set requirements that operators of Shared Active Transportation Systems apply for a permit to operate within public right-of-way. A draft of these Town Code amendments can be found as Attachment C.

Pathway Drive Bike Boulevard

There has been no change on this item from the previous report.

Cobblestone Colfax Connector

There has been no change on this item from the previous report.

Cobblestone Drive Traffic Calming

This traffic calming project is completed. Follow up traffic count to assess the effectiveness of the installed devices will be scheduled at a later date, pending return to normal travel and commuting patterns.

[NEW] ITRE Continuous Bike-Ped Counters Data

Town staff have access to continuously collected Bike-Ped count data from two counters installed by NCDOT/ITRE at two locations in Town: Libba Cotten east of Brewer Lane and Old NC 86 north of Hillsborough Road. These locations use a combination of inductive loops (to detect bicycles) and infrared sensors (to detect people) to count bicycle and pedestrian activity at these locations 24/365. The data from these counters is subject to cleaning/validation, a task which is handled by the staff at the NC State Institute for Transportation Research and Education (ITRE). More information about this program which established these two counter in Carrboro can be found online at: <https://itre.ncsu.edu/focus/bike-ped/nc-nmvd/>

A summary report of continuous count data collected at these two locations from Nov 2014 through Nov 2020 can be found as Attachment B.

This continuous count data is helpful for developing adjustment factors both daily (so that counts less than 24-hrs in length can be converted to a daily estimate) and seasonal (so counts collected during different times of the year can be converted to an annual average). This helps ensure consistent comparison between different count durations (peaks, 13-hr, 16-hr) and those collected during different times of year when travel patterns are different.

Development Projects

Lloyd Farm Development Traffic Mitigation

The approval of the conditional zoning for the Lloyd Farm development included a condition requiring the developer to provide \$15,000 to be used on traffic calming efforts in the Barred Owl Neighborhood. This was included due to the concerns of surrounding residents that the development would bring additional traffic into their neighborhood. Residents have expressed interest in modifying the access to/from Carol Street at Old Fayetteville Road. Staff are working to schedule a public meeting to gather input on resident preferences for changes to that location.

[Update] Staff are currently in the process of developing traffic calming solutions to address the existing conditions on Carol Street. Staff expect to re-assess conditions on the street after at least the first phase of the development is completed.

Pedestrian Safety Projects

Locations Based on Requests from Residents & TAB Members

Planning and Public Works continue to coordinate on the development of preliminary designs, to be used for encroachment agreement to make modifications to NCDOT streets or on Town Streets, for the following locations:

- N Greensboro St @ Pine St: High-visibility crosswalk markings and signage
- Culbreth Rd @ Rossburn Way: High-visibility crosswalk markings and signage
- Old Pittsboro Road: Shared Lane Markings and Bicycle Wayfinding
- Roberson Street @ Libba Cotten: Intersection Safety Markings

A number of other locations are still under consideration; however, both the current COVID-19 pandemic's impact on travel patterns and NCDOT's suspension of projects has had an impact on the previously anticipated schedule for these projects. Additionally, NCDOT has indicated that neither Rapid Rectangular Flashing Beacons (RRFBs) nor High-intensity Activated Walk (HAWK) signals are acceptable for installation within an intersection. Data collection is required to support a traffic signal warrant and will be scheduled when conditions are supportive.

- W Main St @ Hillsborough Rd: Traffic Signal and/or Pedestrian Median Island
- Hillsborough Rd @ James St: Traffic Signal
- N Greensboro St @ Shelton St: Traffic Signal
- W Main St @ W Weaver Street: Bike Boxes, Bike Loop Detectors, Bike Lane Intersection Markings, Curb Radii revisions, and Pedestrian Signal Heads where needed

The status of the pedestrian safety projects, which have been prioritized based on several factors: cost estimates, traffic volumes, bike-ped counts, safety data and input from the TAB is described in the table on the following page.

[Update]: Preliminary design work for crossing improvements on N Greensboro Rd @ Pine St and a pedestrian refuge island & ADA ramps on Old NC 86 @ Hillsborough Rd have been completed.

	NAME	Identified Improvement	Current Status
NCDOT to Perform	Weaver @ E Main St	Pavement markings (NCDOT)	Resurfacing to occur in Summer 2021
	N Greensboro @ Oak St	High-vis crosswalk (covered by STIP, includes PHB)	Estes-Greensboro Roundabout to be completed by September 2021
	N Greensboro @ Williams St	High-vis crosswalk (covered by STIP, includes PHB)	
	N Greensboro @ Hillsborough Rd	High-vis crosswalk (covered by ADA ramps) & RRFB	Timeline for ADA upgrades uncertain due to NCDOT budgetary constraints
	Jones Ferry @ Bim St	High-vis crosswalk (covered by ADA ramps)	
	W Main @ Poplar Ave	High-vis crosswalk	
	N Greensboro @ Robert Hunt Dr	High-vis crosswalk (covered by ADA ramps)	
Town to perform through Encroachment Agreement	S Greensboro @ Merritt Mill Rd	Bicycle improvements and ped signal heads	Improvements identified in the NC 54 Safety Study working to be incorporated into the Design of the S Greensboro Sidewalk Project
	Weaver @ E Main St	Ped heads or signal modifications	EMSOA will address pavement markings and signal timing modifications, will assess signal heads after completion of resurfacing
	W Main @ W Weaver	High-vis crosswalks, bike lane markings, bike boxes, curb extensions & ped signal heads	Collect data to assess need for bike boxes; coordination with NCDOT ADA upgrades
	W Main @ Jones Ferry Rd	Bicycle improvements, marked crosswalk ped signal heads	Beginning preliminary design to add missing crosswalk, other items on hold pending bike plan recommendation
	Merritt Mill Rd @ Cameron St	Bicycle improvements and ped signal heads	On hold pending future coordination with Chapel Hill
	N Greensboro @ Pine St	High-vis crosswalk, ADA ramps	Preliminary design Completed
	Hillsborough @ James St	Traffic signal with pedestrian signals	Insufficient width for refuge island, collect data to assess signal warrant, survey needed
	Jones Ferry @ Davie Rd	Bicycle intersection improvements	On hold pending protected bike lane pilot
	W Main @ Hillsborough Rd	Median island and/or traffic signal	Assessing width for refuge island, collect data to assess signal warrant, survey needed
	N Greensboro @ Shelton St	Traffic signal	Collect data to assess signal warrant or crossing demand for RRFB, survey data needed
	NC 54 @ Westbrook Dr	PHB or HAWK or traffic signal	Recommendation identified in NC 54 Safety Study, funded through OC Transit Plan
	Hillsborough @ High/Cheek St	Hi-vis x-walk	Need to consider additional sidewalk due to lack of connection infrastructure needed for NCDOT to approve crosswalk
	W Main @ Ashe St	Hi-vis x-walk and ada curb ramps	Beginning preliminary design
	Old NC 86 @ Hillsborough Rd	Pedestrian refuge island, ada curb ramps	Preliminary design Completed
	Jones Ferry Protected Bike Lane	Physical delineation to place in buffer	Sungate has completed exhibit, Staff identified budget, working to develop encroachment application
	W Main @ High/Westview	Hi-vis crosswalk and RRFB (Rectangular Rapid Flashing Beacon)	Need to consider additional sidewalk due to lack of connection infrastructure needed for NCDOT to approve crosswalk
	Homestead @ Claremont Rd	Lighting & RRFB plus median island	Beginning preliminary design
	Culbreth Drive and Rosburn way	Hi-vis crosswalk	Preliminary design completed
	Hillsborough @ McDougle Driveway	Pedestrian refuge island	Beginning preliminary design
Town to perform	Roberson @ Libba Cotten	Raised intersection or green paint	Preliminary design completed
	Old Pittsboro Rd	Sharrows and bike route (or Bike Blvd)	Preliminary design completed
	Cobblestone Connector	Widen sidewalk to 10' Multi Use Path (MUP)	Sungate has completed concept design, on hold due to low priority.
Preliminary Design Completed			
Preliminary Design In Progress			
Project on Hold			
Additional data collection, survey work, or supporting infrastructure required			

Downtown Safety Improvements/Slow Zone

Conversations with NCDOT have indicated that the State Traffic Engineer will generally not approve speed limits lower than 25 MPH on state maintained facilities due to the difficulties with enforcement. In light of this, staff are working to pursue engineering improvements to help manage vehicle speeds within and around downtown including: Leading Pedestrian Interval (LPI), the East Main Street Restriping Proposal, and Pedestrian Safety Projects (mentioned above). Additionally, implementing No Right Turn on Red (RTorR) can be investigated but is a more detailed process, which will require approval from the State Traffic Engineer.

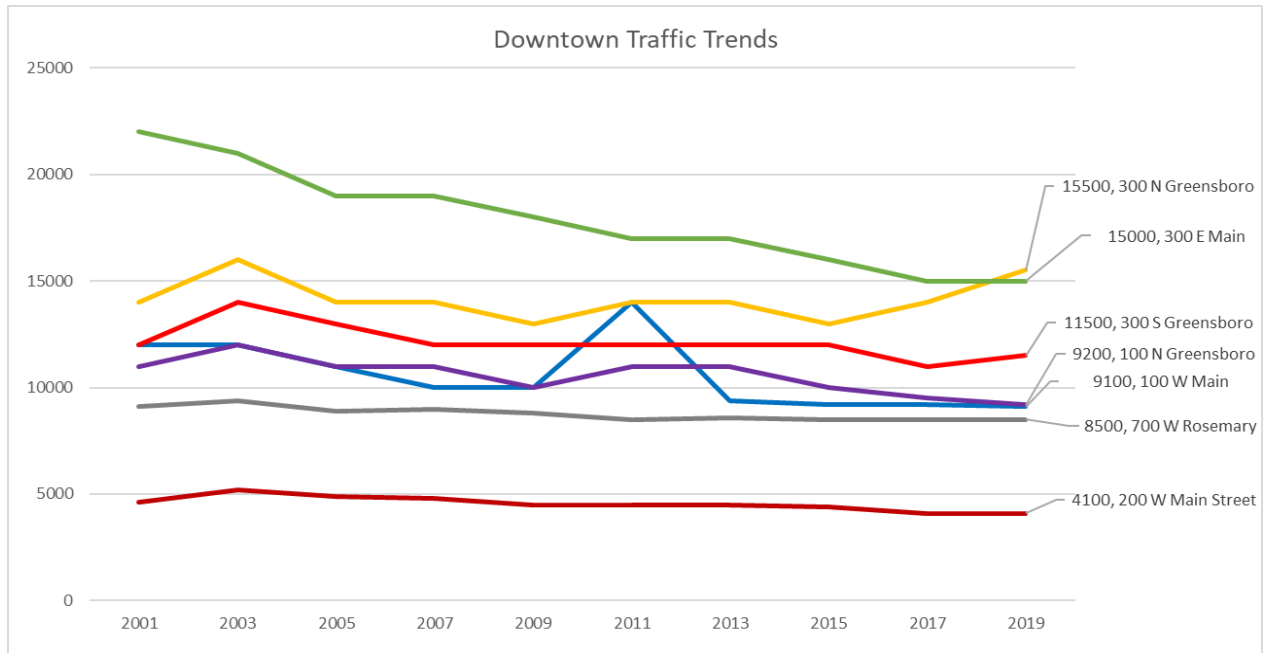
[Update] There has been renewed interest in pursuing a Slow Zone in the downtown area, noting the 20 MPH speed limit in downtown such as Asheville and Goldsboro. Research into these communities revealed that these speed limits have been in place for a long time and predate the existing NCDOT policy of not allowing speed limits less than 25 MPH, unless other roadway characteristics (such as on-street parking and presence of a roundabout) justify a lower speed limit.

Town staff have reached out to NCDOT for information on existing policies relating to speed limits in downtown areas, and have scheduled a meeting to discuss further on March 19th. In the interim, Town staff from Planning, Public Works, and Police departments met on March 5th to review initial comments from NCDOT, current Town-collected speed data, and the Police Department's current enforcement practices. Other measures that staff have been putting into practice to help reduce speeds and shift the priority traveler from motor vehicles to pedestrians and people on bicycles noted above. Projects to redesigning street cross sections to provide for fewer or narrower lanes of vehicular travel in exchange for bike lanes or other improvements are also underway, on East Main Street and South Greensboro Street/Smith Level Road. A segment of North Greensboro Street has also been identified for a possible feasibility analysis to determine if a different cross section would be suitable.

A more focused discussion on the slow zone has been scheduled for the Council's meeting on April 6th, 2021.

Downtown Traffic Volume Trends

In the past, the Board of Aldermen received updates on traffic volume counts and traffic operations within the downtown area. As an alternative to a detailed traffic analysis, a review of the historic trends in available Annual Average Daily Traffic (AADT) as collected by NCDOT can be an efficient way to gain useful insights. The table below displays the AADT volumes collected between 2001 and 2019 for locations at: 100 W Main St, 300 E Main St, 300 N Greensboro St, 100 N Greensboro St, 300 S Greensboro St, 700 W Rosemary St, and an aggregate total volume. While the majority of locations have seen flat or mild fluctuations in AADT, the 300 E Main Street location has consistently trended downwards during this period (a decrease of about 32%). This item has been updated with NCDOT 2019 AADT volumes.



Safe Routes to School Implementation Committee

Due to the restrictions in place to limit the spread of COVID-19, the call for applicants to the SRTS Implementation Committee is delayed. Staff are working to determine the best method to identify interested community members and reconvene this group as a subcommittee of the Transportation Advisory Board.

[Update] Staff currently expect to issue a call for applicants to the SRTS committee before the end of this school year, with the goal of inviting applicants to a Transportation Advisory Board meeting in the summer.

Transit Projects

2020 Orange County Transit Plan

The OCTP is funded by the transit dedicated half-cent sales tax that was approved by Orange County voters in 2012. The current OCTP was adopted in 2017 and can be viewed online at: https://gotriangle.org/sites/default/files/publications/orange-county-transit-plan_170424_app.pdf

While it can be unclear what improvements Carrboro is getting out of a transit plan, as our service is operated by Chapel Hill Transit, there are a number of capital improvements which enhance transit service (such as upgraded bus stops and greenways/sidewalks) that received funding from the 2017 plan. Summarized below are the projects in Carrboro:

Type	Description	Year
Transit	Bus stop improvements for the 405 Route in Carrboro	FY18-20
Transit	Two new shelters for bus stops in Carrboro	FY18-20
Access	Morgan Creek Greenway	FY18-20
Access	S Greensboro St Sidewalk	FY18-20
Access	W Main St Sidewalk	FY18-20
Access	NC 54 Hawk Signal	FY18-20
Access	Estes Drive Corridor Study and Bike Ped Improvements	FY21-22

The framework for the 2020 Orange County Transit Plan (OCTP) was approved by the Orange County BOCC in November 2019, to update the plan due to the discontinuation of the Durham-Orange Light Rail project. On August 27, 2020, Orange County announced that it would begin public engagement and outreach to develop a new plan, including a public survey, which can be found online at <https://www.surveymonkey.com/r/OCTransit>. On Thursday, October 1st, 2020, the first Orange County Transit Summit was held via Zoom. Staff are working to coordinate with the Transit Plan team to ensure that capital projects from the previous plan are carried over to the new plan. For more information about the plan update and ways to get involved, visit the project website at <https://octransit2020.com/>

[Update] OCTP policy committee meetings were held on February 12, and March 12, 2021. The Orange County Transit Plan 2020 is expected to be completed in June or July of 2021.

CHT Short Range Transit Plan (SRTP) Service Changes

Due to the restrictions in place to limit the spread of COVID-19, Chapel Hill Transit has only proceeded with partial implementation of the SRTP and is currently running a reduced schedule, which began on August 3rd.

- The following routes are running 7 days a week, plus some holidays: A, CM, CW, D, J, NS, NU, & U.
- The following routes are running Monday through Friday: FCX, HS, RU, & S
- The Senior Shuttle and EZ Rider are running on regular schedule.
- The Carrboro Plaza Park and Ride has ceased being a PnR lot as of August and will no longer be served. Riders should use the Jones Ferry Park and Ride lot, approximate three-quarters (3/4) mile away.

Several routes have no changes identified in the SRTP, these are the J, JFX, NS, RU, and U routes. Several routes will no longer run, but service will be provided by other routes. The routes and their substitutes are shown on the next page.

Route going out of service	Routes to switch to
CPX route	CM route, JFX route
HU route	B route
V route	NS route, N route
FG route (Saturday)	A route
JN route (Saturday)	J route, N route

More information can be found at:

<https://www.townofchapelhill.org/government/departments-services/transit/service-changes>

[Update] Chapel Hill Transit is assisting with access to vaccination sites in Chapel Hill, Carrboro, and UNC Health in Hillsborough. Some seniors (or other residents) may not be EZ Rider customers and for trips to vaccination sites, the EZ Rider certification process is waved. More information can be found at: <https://www.townofchapelhill.org/government/departments-services/transit/transit-covid-19-update>

North-South Bus Rapid Transit (NSBRT)

On September 22nd, the Chapel Hill Transit Partners received an update on the current status NSBRT Project. The following information was provided:

- Chapel Hill Transit staff applied for the NEPA Class of Action request on 8/13/20.
- CHT staff declined to request a project re-evaluation (declining does not have an impact on the project, unless the resubmittal is required by the FTA) as there are changes underway that could influence the rating in the future:
 - Chapel Hill Future Land Use Map & Land Use Management Ordinance updates
 - North Chapel Hill Master Plan
 - East Rosemary Redevelopment
 - Orange County Transit Plan
- The NSBRT has applied for \$35M in state funds under SPOT 6.0, there are \$14.1M in allocated funds from the Orange County Transit Plan, and the project will be seeking the maximum \$99M in Federal Funding through the Small Starts process.

[Update] On October 20, 2020 Chapel Hill Transit received word that the Federal Transit Administration (FTA) determined the National Environmental Protection Act (NEPA) class of action for the NSBRT as a Documented Categorical Exclusion (DCE). Completion of the DCE is required prior to undertaking any further design/engineering work.

On December 16, 2020 Chapel Hill Transit was selected to receive grant from the FTA to plan for transit-oriented development (TOD) around the NSBRT. More information about this grant program can be found at: <https://www.transit.dot.gov/about/news/us-department-transportation-announces-over-6-million-grant-awards-improve-transit>

Chapel Hill Transit staff are currently developing the Request for Qualifications (RFQ) for the final design of the NSBRT and a Request for Proposals (RFP) for the associated grant-funded TOD planning. The NEPA documentation, as required by the FTA, is also underway.



NCDOT Non-motorized Volume Data Program

Annual Data

02/20/2021

Carrboro - Libba Cotten Bikeway, Bicycles

North Carolina DOT

December 12, 2014 → November 30, 2020

Disclaimer for Annual Data Use

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Location Diagram Description

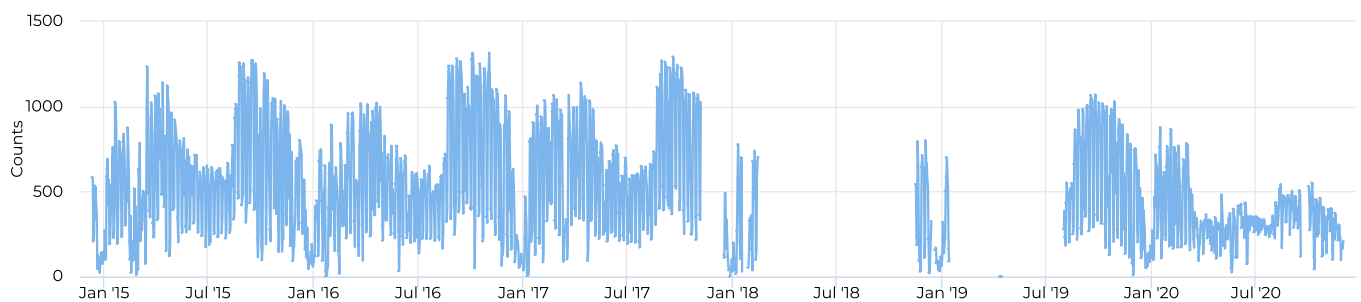
The figure to the right represents the counting sensor configuration at this location. Stars = counting systems; red triangles = pedestrian detection zones; blue & yellow diamonds = bicycle detection zones.



Count Locations



Annual Data



Average Daily Total Volume

Daily Average

511

Carrboro - Libba Cotten Bikeway, Bicycles

North Carolina DOT

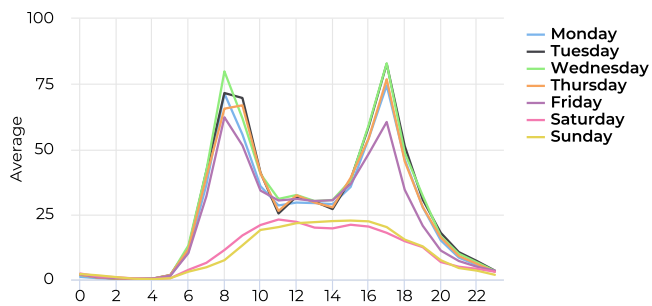
December 12, 2014 → November 30, 2020

Tabular Data

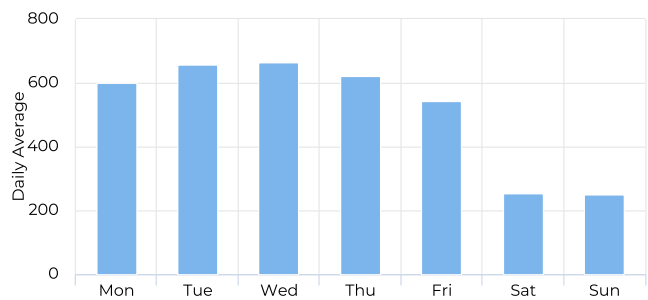
Time	Carrboro - Libba Cotten Bikeway, Bicycles
Dec 12, 2014 12:00 AM	1
Dec 12, 2014 1:00 AM	1
Dec 12, 2014 2:00 AM	0
Dec 12, 2014 3:00 AM	1
Dec 12, 2014 4:00 AM	0
Dec 12, 2014 5:00 AM	1
Dec 12, 2014 6:00 AM	7
Dec 12, 2014 7:00 AM	46
Dec 12, 2014 8:00 AM	56

Showing 1 to 10 out of 52,344 entries

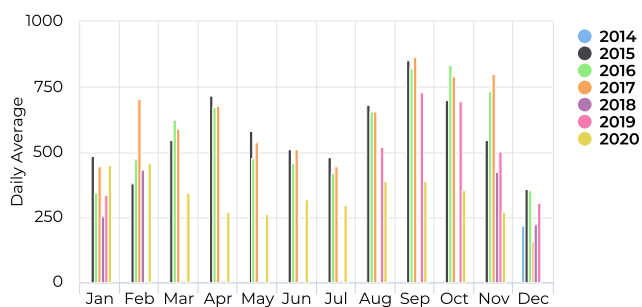
Average Volume by Hour of Day



Average Volume by Day of Week



Average Daily Volume by Month



Carrboro - Libba Cotten Bikeway, Pedestrians

North Carolina DOT

December 12, 2014 → November 30, 2020

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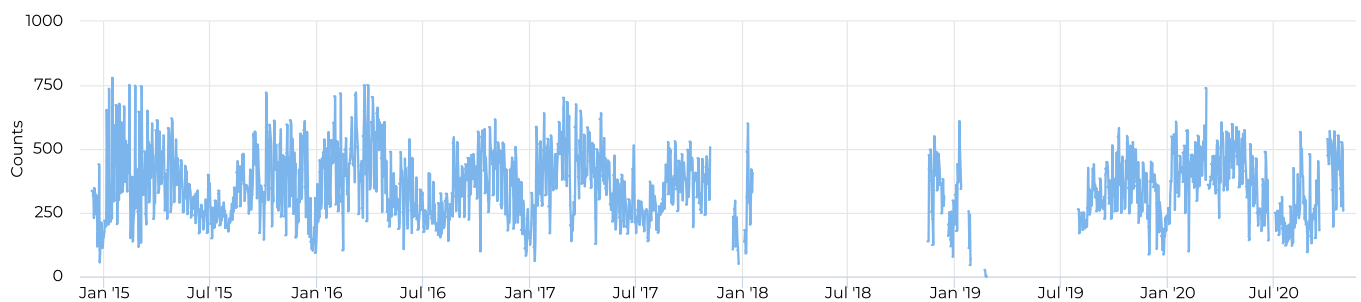
The figure to the right represents the counting sensor configuration at this location. Stars = counting systems; red triangles = pedestrian detection zones; blue & yellow diamonds = bicycle detection zones.



Count Locations



Annual Data



Average Daily Total Volume

Daily Average

355

Carrboro - Libba Cotten Bikeway, Pedestrians

North Carolina DOT

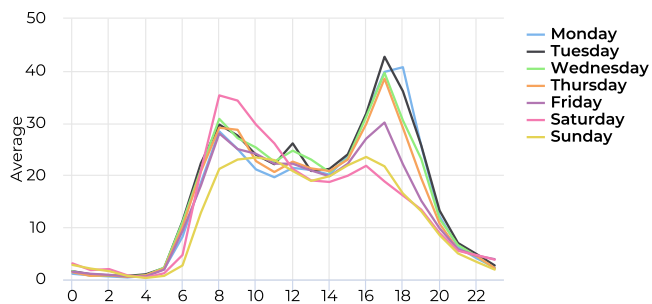
December 12, 2014 → November 30, 2020

Tabular Data

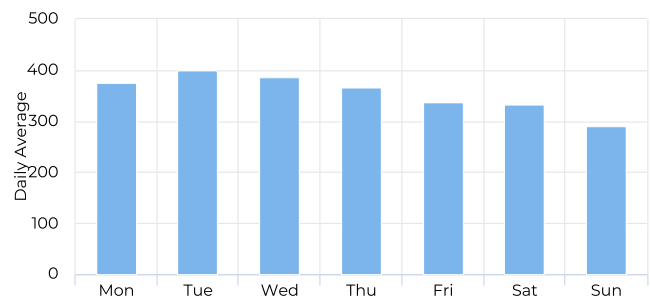
Time	Carrboro - Libba Cotten Bikeway, Pedestrians
Dec 12, 2014 12:00 AM	2
Dec 12, 2014 1:00 AM	0
Dec 12, 2014 2:00 AM	0
Dec 12, 2014 3:00 AM	0
Dec 12, 2014 4:00 AM	0
Dec 12, 2014 5:00 AM	1
Dec 12, 2014 6:00 AM	7
Dec 12, 2014 7:00 AM	11
Dec 12, 2014 8:00 AM	58

Showing 1 to 10 out of 52,344 entries

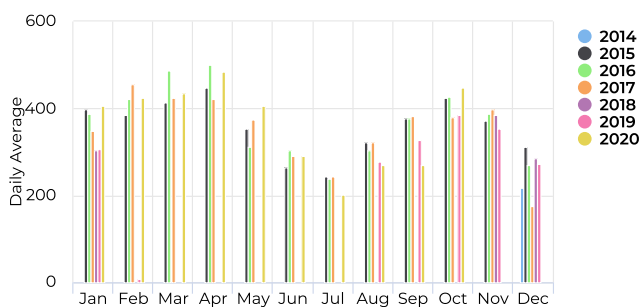
Average Volume by Hour of Day



Average Volume by Day of Week



Average Daily Volume by Month



Carrboro - Old Highway 86, Bicycles

North Carolina DOT

December 12, 2014 → November 30, 2020

Disclaimer for Annual Data Use

The annual data stored and accessed in Eco-Visio 5 are verified and validated. These data have been subjected to the NC NMVDP's quality control, quality assurance, and validation procedures and meet the criteria and standards of official NC NMVDP data. Invalid data resulting from equipment malfunction or other sources of error have been removed and site-specific correction factors have been applied to adjust for undercounting or overcounting that may have occurred at a site.



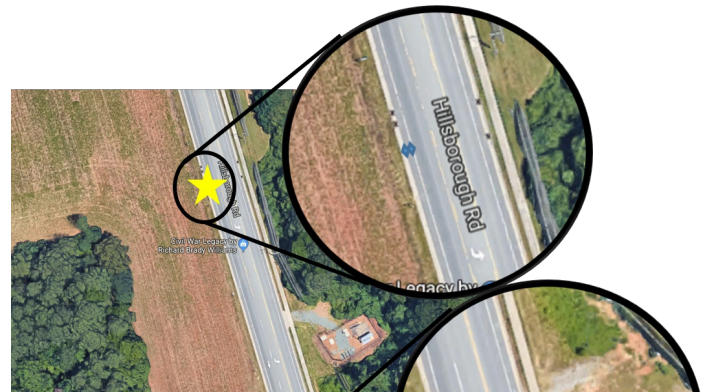
Disclaimer for Public Dashboard Use

The data and visuals provided in this dashboard are publicly accessible. Please do not edit the layout or content. Please provide any questions, comments, or feedback to Sarah Searcy at NC State University



Location Diagram Description

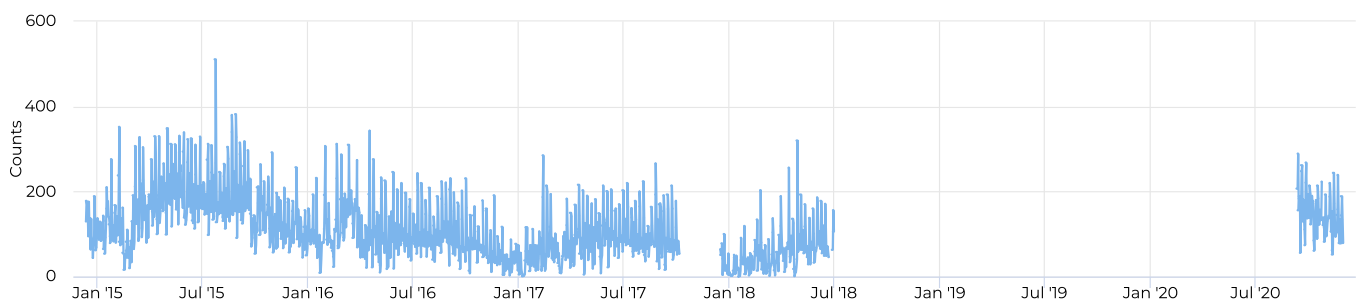
The figure to the right represents the counting sensor configuration at this location. Stars = counting systems; red triangles = pedestrian detection zones; blue & yellow diamonds = bicycle detection zones.



Count Locations



Annual Data



Average Daily Total Volume

Daily Average

112

Carrboro - Old Highway 86, Bicycles

North Carolina DOT

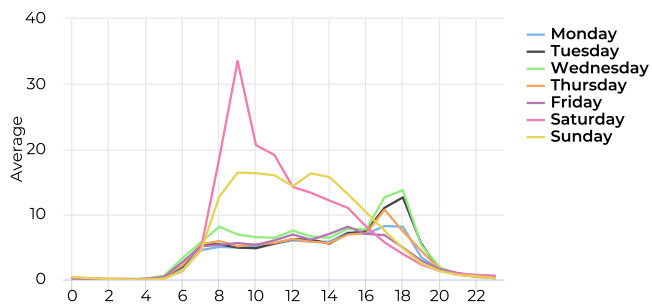
December 12, 2014 → November 30, 2020

Tabular Data

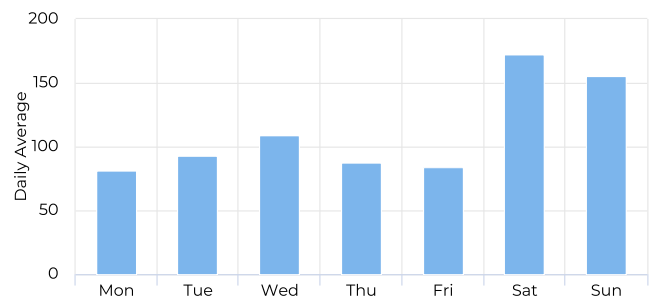
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Dec 12, 2014 1:00 AM	0
Dec 12, 2014 2:00 AM	0
Dec 12, 2014 3:00 AM	0
Dec 12, 2014 4:00 AM	0
Dec 12, 2014 5:00 AM	0
Dec 12, 2014 6:00 AM	0
Dec 12, 2014 7:00 AM	6
Dec 12, 2014 8:00 AM	8

Showing 1 to 10 out of 52,344 entries

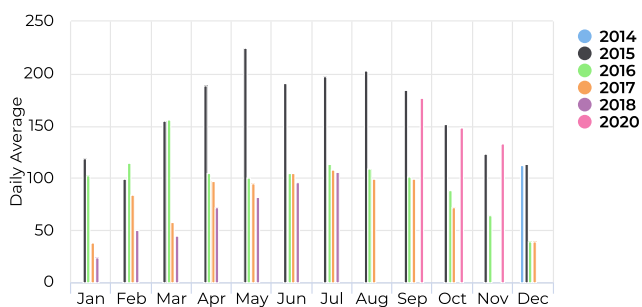
Average Volume by Hour of Day



Average Volume by Day of Week



Average Daily Volume by Month



Carrboro - Old Highway 86, Pedestrians

North Carolina DOT

December 13, 2014 → November 30, 2020

Disclaimer for Annual Data Use

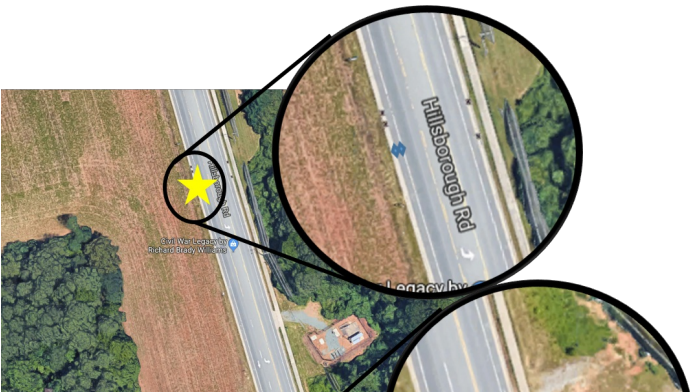
The annual data stored and accessed in Eco-Visio 5 are verified and validated. These data have been subjected to the NC NMVDP's quality control, quality assurance, and validation procedures and meet the criteria and standards of official NC NMVDP data. Invalid data resulting from equipment malfunction or other sources of error have been removed and site-specific correction factors have been applied to adjust for undercounting or overcounting that may have occurred at a site.

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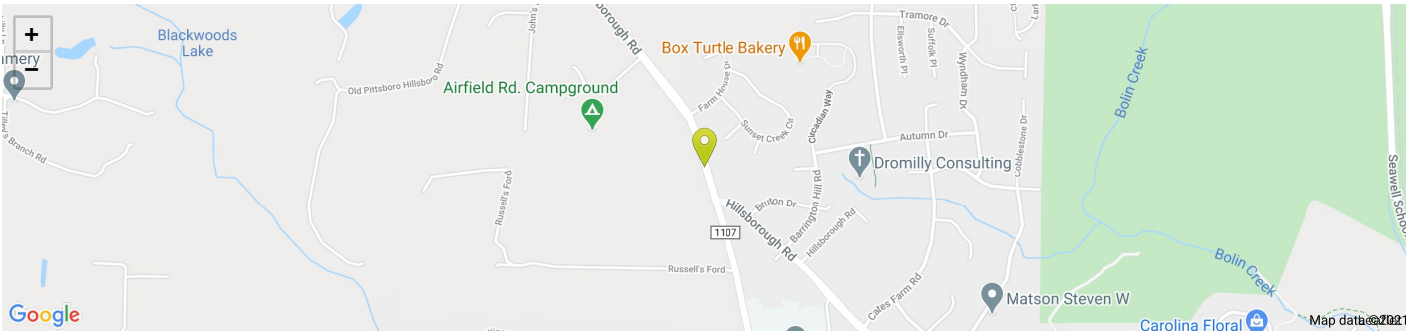
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Location Diagram Description

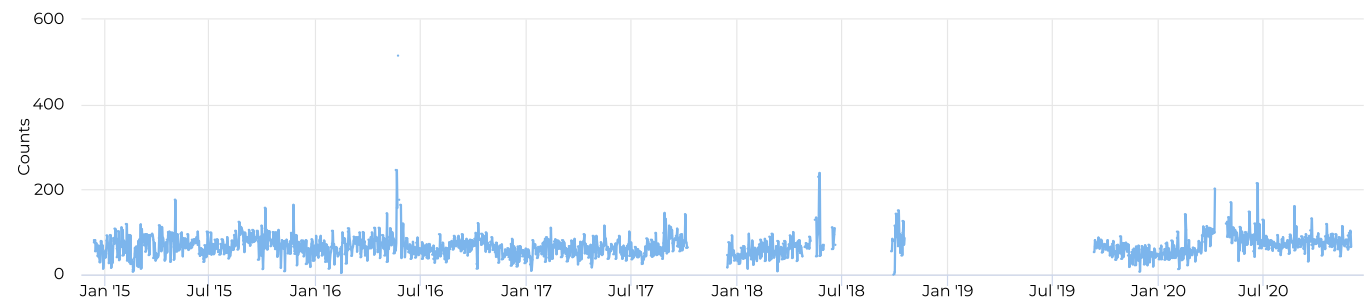
The figure to the right represents the counting sensor configuration at this location. Stars = counting systems; red triangles = pedestrian detection zones; blue & yellow diamonds = bicycle detection zones.



Count Locations



Annual Data



Average Daily Total Volume

Daily Average

67

Carrboro - Old Highway 86, Pedestrians

North Carolina DOT

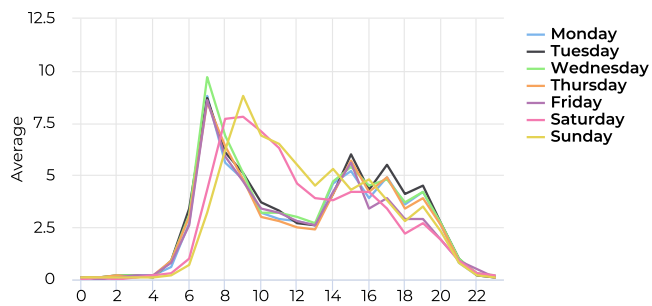
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Tabular Data

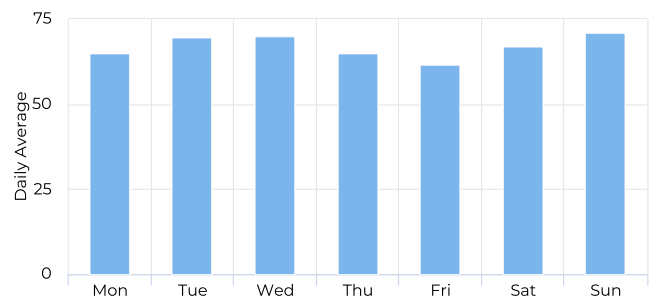
Time	Carrboro - Old Highway 86, Pedestrians
Dec 13, 2014 12:00 AM	0
Dec 13, 2014 1:00 AM	0
Dec 13, 2014 2:00 AM	0
Dec 13, 2014 3:00 AM	0
Dec 13, 2014 4:00 AM	0
Dec 13, 2014 5:00 AM	0
Dec 13, 2014 6:00 AM	1
Dec 13, 2014 7:00 AM	2
Dec 13, 2014 8:00 AM	3

Showing 1 to 10 out of 52,320 entries

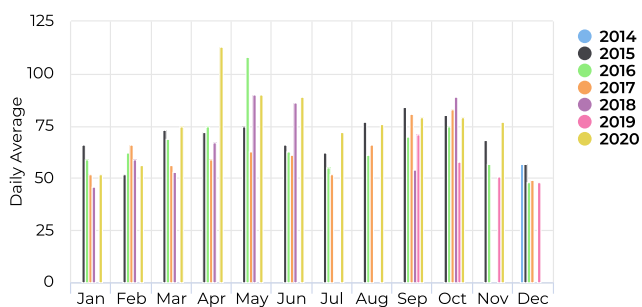
Average Volume by Hour of Day



Average Volume by Day of Week



Average Daily Volume by Month



Proposed Town Code Amendment to Define and Regulate Bike Share (Shared Active Transportation Systems, Shared Devices) Electric Bicycles and Electric Scooters.

Section 6-1 Definitions and Rules of Construction

(3) Bike Lane. That portion of the roadway set aside for the use of bicycles, *electric bicycles, electric scooters, or shared devices.* (Amend. 3/10/92)

(4) Bike Path. A pathway primarily designed for bicycles, *electric bicycles, electric scooters, and shared devices* (pedestrian traffic may also be permitted) located either within that portion of a street right-of-way that is separate from the roadway or within a public easement other than a street right-of-way. (Amend. 3/10/92)

(5) Bikeway. A thoroughfare suitable for bicycles, *electric bicycles, electric scooters, and shared devices* (and pedestrians), including bike lanes and bike paths. (Amend. 3/10/92)

(11) Motor Vehicle. Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. However, this definition shall not include mo-peds as defined in subdivision (10) above, *electric bicycles as defined in subdivision (22) below, or electric scooters as defined in subdivision (23) below.*

(21) Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks, provided, that for the purposes of this chapter, bicycles, *electric bicycles, electric scooters, and shared devices* shall be deemed vehicles and every rider of a bicycle, *electric bicycle, electric scooter, or shared device* upon a highway shall be subject to the provisions of this chapter applicable to the driver of a vehicle except those which by their nature can have no application.

(22) Electric Bicycle (E-Bike).

A bicycle with a small electric helper motor with less than 750W and a maximum speed of 25mph on flat surfaces. Riders must be at least 16 years of age.

(23) Electric Scooter (E-scooter).

A vehicle that is steered by a steering handle, designed to be stood upon by the operator while the vehicle is in operation, and powered by a motor capable of propelling the vehicle at a speed no greater than 18 miles per hour on a level surface; and whose wheels have diameters of ten inches or less. Riders must be at least 16 years of age.

(24) Shared Active Transportation System (SATS).

A business or service that provides one or more shared devices, as defined in subdivision (25) below, for rentals where, by design of the business, the shared devices are intended to be parked in a device operating area, but not connected to a dedicated docking station, when not rented by a customer.

(25) Shared Device.

A bicycle (defined in subdivision (2)), electric bicycle (defined in subdivision (22)), or electric scooter (defined in subdivision (23)) that is rented by a business or service to customers through a SATS (defined in subdivision (24)).

Section 6-28

(c) The driver of a motorcycle, ~~or bicycle~~, **electric bicycle, electric scooter, or shared device** when upon the street shall not carry any other person upon the handlebars, tank, or any other part of such vehicle not designed or carrying passengers. No person may ride upon the handlebars, tank or any other part of a motorcycle, ~~or bicycle~~, **electric bicycle, electric scooter, or shared device** not designed for carrying passengers.

Section 6-35 Direction of Travel

Except for bikepaths, all bikeways shall carry bicycle, **electric bicycle, electric scooter, and shared device** traffic only in the direction of the nearest adjacent traffic lane. Traffic may proceed in both directions along the Libba Cotten bikepath, subject to the remaining provisions of this article.

Section 6-37 Shared Usage By Bicyclists and Pedestrians

(4) Electric bicycles, electric scooters, and shared devices may be operated on bike paths.

(a) When using those bike paths, electric Bicycles, Electric Scooters, and Shared Devices shall have a speed limit of 15 Miles per hour; shall yield the right-of-way to pedestrians; and, when passing pedestrians from the rear, shall pass only on the left and only after giving an audible warning to such pedestrians; and shall not ride in such a way as to endanger pedestrians.

(b) When a shared device is being operated on a bike path, it shall have its speed functionally capped to 12 Miles per hour, provided the shared active transportation system which operates it has the ability to regulate the speed of its shared devices within certain geographic areas.

Section 6-38 Bicycles, Electric Bicycles, Electric Scooters, Shared Devices, and Motor Vehicles Prohibited on Certain Sidewalks (Amend. 10/13/98)

(b) No person may operate upon any sidewalk a motor vehicle, electric bicycle, electric scooter, or shared device (including without limitation on any riding lawn mower or other motorized device designed to carry one or more persons, but not including a motorized wheelchair or similar device designed principally to convey a person with limited mobility). (Amend. 10/13/98)

Section 6-39 Bicycles, Electric Bicycles, Electric Scooters, and Shared Devices Subject to General Statutes

(1) Unless otherwise specifically provided in this chapter, bicycles, electric bicycles, electric scooters, and shared devices shall be deemed vehicles and every rider of a bicycle, electric bicycle, electric scooter, or shared device upon a street, bikeway, or sidewalk shall be subject to the provisions of this chapter and all the rules of the road set forth in state law applicable to the driver of a vehicle except those which be their nature can have no application. Without limiting the foregoing, persons riding bicycles, electric bicycles, electric scooters, or shared devices:

(a) Shall obey the instructions of official traffic control signs and other traffic control devices applicable to vehicles and bicycles, unless directed otherwise by a police officer.

(b) Shall yield the right-of-way to vehicles, other bicycles, and pedestrians according to the rules of the road applicable to other vehicles.

(c) Shall not pass other vehicles on the right except to the limited extent that motor vehicles are authorized to pass on the right as set forth in G.S. 20- 150.1.

(d) Shall merge with traffic at the end of bike lanes at intersections.

(2) No bicycle, **electric bicycle, electric scooter, or shared device** may be operated on any street, sidewalk, or bikeway without all of the safety equipment required by state law. Without limiting the foregoing, and as provided in G.S. 20- 129(e), every bicycle, **electric bicycle, electric scooter, or shared device** shall be equipped with a lighted lamp on the front thereof, visible under normal atmospheric conditions from a distance of at least 300 feet in front of such bicycle, **electric bicycle, electric scooter, or shared device** and shall also be equipped with a reflex mirror or lamp on the rear exhibiting a red light visible under light conditions from a distance of at least 200 feet to the rear of such bicycle, **electric bicycle, electric scooter, or shared device** when used at night.

Section 6-40 Voluntary Registration of Bicycles and Electric Bicycles

To deter the theft of bicycles (**including electric bicycles**) and to assist in investigation bicycle theft, recovering lost or stolen bicycles and returning such bicycles to their proper owners, the Town Manager is authorized to establish a program for the voluntary registration of all bicycles residing within the town.

Section 6-40.1 Helmets Required for Bicycles, Electric Bicycles, Electric Scooters and Shared Devices (Amend. 9/16/97)

(a) Every person sixteen (16) years of age or under operating a bicycle, **electric bicycle, electric scooter, or shared device** on a public right-of-way within the town shall wear a protective helmet on their head, with the chin strap fastened under chin. Such helmet shall be fitted the size of the operator and shall meet or exceed the ANSI (American National Standards Institute) z90.4 or subsequent bicycle helmet standards, or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for Use in Bicycling or subsequent standards.

(b) No person operating a bicycle, **electric bicycle, electric scooter, or shared device** on a public right-of-way shall allow anyone to ride as a passenger unless the passenger is wearing a helmet as defined in subsection (1) above or else is in an enclosed trailer or other device which meets or exceeds current nationally recognized standards or design and manufacture for the protection of the passenger's head from impacts in an accident without the need for a helmet.

Section 7-9 Encroachment Permit Required

(m) Shared active transportation systems may apply to the Town to utilize the public right-of-way for advertisement, vehicle placement, or other uses. The Town Manager or their designee may prescribe application requirements and procedures to govern use of the Town right-of-way.

(1) Section 7-1 Subsections (a) and (b) of this article shall not apply to shared devices which are operating in the Town as part of a Shared Active Transportation System with an approved permit as outlined above.

(2) Partial obstruction of a public sidewalk by a shared device belonging to a Shared Active Transportation System to conduct sales is permissible in accordance with conditions of the permit issued by the Town.

DRAFT



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-92

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Downtown Slow Zone Discussion

PURPOSE: The purpose of this agenda item is to provide information on current speed data, enforcement practices, and allow for discussion of the downtown slow zone concept.

DEPARTMENT: Planning, Police, Public Works

CONTACT INFORMATION: Zachary Hallock, 919-918-7329, zhallock@townofcarrboro.org [<mailto:zhallock@townofcarrboro.org>](mailto:zhallock@townofcarrboro.org); Tina Moon, 919-918-7325, cmoon@townofcarrboro.org [<mailto:cmoon@townofcarrboro.org>](mailto:cmoon@townofcarrboro.org); Trish McGuire, 919-918-7327, pmcguire@townofcarrboro.org [<mailto:pmcguire@townofcarrboro.org>](mailto:pmcguire@townofcarrboro.org); Chief Chris Atack, 919-918-7408, catack@townofcarrboro.org [<mailto:catack@townofcarrboro.org>](mailto:catack@townofcarrboro.org); Joe Guckavan, 919-918-7427, jguckavan@townofcarrboro.org

INFORMATION:

In response to renewed local interest in a Downtown Slow Zone and other pedestrian safety issues, staff reached out to NCDOT about this topic. A meeting between NCDOT and town staff from multiple departments was held on March 19, 2021.

A staff memo providing background information and a draft summary of the discussion with NCDOT can be found as Attachment A.

Supporting maps and data are included as attachments:

Attachment B - Posted Speed Limits

Attachment C - Town Collected Speed Data

Attachment D - Speed Limit Compliance Rate

Attachment E - Street Maintenance

FISCAL & STAFF IMPACT: There is no impact associated with this discussion.

RECOMMENDATION: Staff recommend council review the associated information and provide additional direction to staff.



TOWN OF CARRBORO
NORTH CAROLINA

TRANSMITTAL

PLANNING DEPARTMENT

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

To: David Andrews, Town Manager
Mayor and Town Council

From: Zachary Hallock, Transportation Planner

Date: April 2, 2021

Subject: Downtown Slow Zone Update

Background

The slow zone concept was first discussed by the Town's Transportation Advisory Board (TAB) in 2012. Over the next two years, additional information was developed and subsequently presented to the Board of Aldermen in 2014 both by the TAB and the Town's Transportation Planner, Jeff Brubaker. These agenda items can be found below:

TAB Presentation: [Town of Carrboro - File #: 14-0056](#)

Staff Presentation: [Town of Carrboro - File #: 14-0155](#)

Continued discussion of the Slow Zone concept, along with pedestrian safety interests continued in 2014. Then in 2015, the TAB conducted outreach related to these ideas and compiled community input. Transportation Planner Bergen Watterson made a presentation to the Board of Aldermen in 2016. ([Town of Carrboro - File #: 16-015](#))

In 2017, Planning Administrator Tina Moon presented additional information to the Board of Aldermen about potential pedestrian safety improvements (as based on the TAB's previous work) for consideration. ([Town of Carrboro - File #: 17-088](#))

In 2019, Transportation Planner Zachary Hallock worked internally with planning and public works staff to develop a list of potential bike-ped safety projects. A prioritization process was developed to identify top projects using cost estimates, bike/ped counts, crash data, vehicle counts, and input from the Transportation Advisory Board. The results of this prioritization was shared with the Town Council as part of a transportation update in February 2020. ([Town of Carrboro - File #: 19-382](#))

In 2020, interest in the Slow Zone was renewed, especially as it relates to previous feedback received from NCDOT that they had significant reservations about setting speed limits below 25 MPH. These reservation stemmed from issues relating to compliance, that lowering speed limits without significant enforcement would exacerbate issues with speed limit compliance beyond those that already exist.

Local residents provided examples of locations in North Carolina with a 20 MPH speed limit were referenced in response to this feedback from NCDOT. Research by Town Staff indicated that those locations had those speed limits in place for a significant amount of time (nearly 50 years) and also possessed unique geometric features (such as on-street parking or the presence of a roundabout) that allowed those lower posted speeds. NCDOT indicated that they had concerns related to enforcement and compliance with the posted speed, in particular if the Town wanted to reduce speed limits. Town staff responded and requested a meeting with NCDOT, which would be scheduled for March 19th 2021. On March 5th, Town Staff met internally (Planning, Police, Public Works) to discuss the Slow Zone concept and related concerns about vehicle speeds.

Discussion with NCDOT

Staff met with NCDOT Staff on March 19th, to further discuss the Town's interest in a Slow Zone and other pedestrian safety interests. A draft overview of the discussion that occurred during that meeting is below:

- 20 MPH is the lowest allowable speed limit as set by the North Carolina General Assembly.
- If speed limits are reduced but drivers are not compliant, it can create dangerous conditions for people who are trying to cross the street.
- NCDOT is in the process exploring modifications to statewide guidance regarding speed limit setting.
- 25 MPH is a practical minimum from both perspectives of enforcement and compliance, as many drivers can use a cruise control at 25 MPH (but it typically won't engage below that).
- The Town can set its own speed limits for roads that are off of the state system
- It can be difficult to ticket people in transition areas (where speed limit drops)
- Strict enforcement overall can be challenging for two reasons:
 - Some areas may require two officers
 - Ticketing at 5 MPH over will generally be considered frivolous and dismissed (Police Dept. is working with the District Attorney on this issue)
- Signage would be needed to inform of the slow zone, but would not be expected to have a significant impact on speeds. Town would be responsible for installation and maintenance.
- Solutions to consider:
 - Traffic Signal changes like Coordination Speed, LPI, and No RTOR
 - Road Diets, like what is currently proposed for E Main St

- Modifications to create self-enforcing streets (that is, streets that are design such that people drive the speed limit), such as lane width reductions or on-street parking (if applicable)
- If the Town is to develop a Slow Zone policy, it needs to be structured to maximize consistency with NCDOT policy
 - State system roads can be considered for 20 MPH, but it is not expected that wide areas would support this.
 - Need clear communication and identification of the slow zone.
 - Signs are not the solution, but the capital and maintenance would need to be handled by the Town.
 - More enforcement in downtown areas is difficult due geometry, and automated enforcement is not currently enabled by the North Carolina General Assembly (and is not expected to be).
- Town-collected speed data (shown in the table below) was also displayed and discussed at the meeting with NCDOT. Additional information (maps of speed data, speed limit compliance, posted speed limits, and street maintenance can be found as attachments to this agenda item).

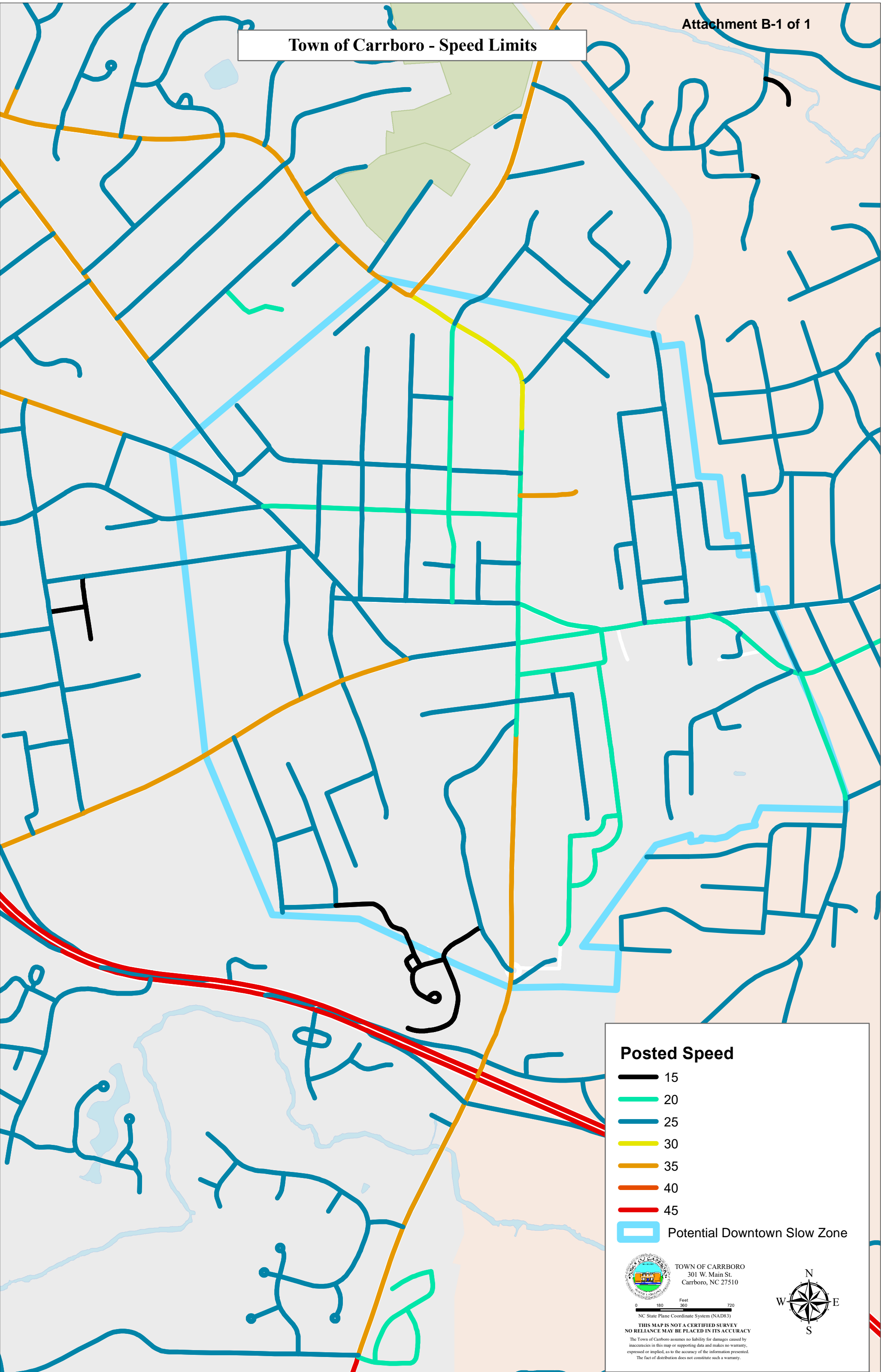
Town of Carrboro Collected Speed Data

These counts have been collected over the past two and a half years, beginning in November 2018. These counts cover a period of 48-hours and were generally collected on a non-holiday, non-summer, Tuesday-Wednesday or Wednesday-Thursday. COVID-19 precautions have been in place since March 2020, thus the Average Daily Traffic reported for those counts are lower than what might be anticipated under previous conditions. Speed data however, is a statistical analysis that requires a sufficient sample size in order to ensure validity. All of the locations collected are reporting at least 3600 vehicles over a 48-hour period, which is an effective sample size that accurately represents the overall population of drivers crossing that point on the road. There may be some variations caused by COVID-19 restrictions, however determining those exact impacts are outside the scope of this analysis.

Location	Count Date	Posted Speed	Average Speed	Speed Limit Compliance	85th Percentile Speed	Average Daily Traffic
S Greensboro south of Old Pittsboro (north)*	2/3/2021	20	31.1	1.1%	36	7800
N Greensboro north of Shelton St*	2/12/2019	20	31.1	2.2%	34	13500
W Main St west of Hillsborough Rd*	1/30/2019	25	32.2	15.0%	38	4100
Smith Level Rd north of Willow Oak Ln	3/10/2021	35	38.5	16.0%	51	13500
Estes Drive north of N Greensboro St	2/24/2021	35	37.8	31.0%	44	7900
Hillsborough northwest of Parkview Ave	2/12/2019	35	38.6	33.1%	44	4600
Estes Drive north of Estes Park Apts	2/24/2021	35	37.0	38.0%	45	8000
Jones Ferry Rd east of Davie Rd	11/11/2020	35	37.3	40.0%	45	5300
Hillsborough northwest of McDougle School	3/10/2021	35	35.9	50.0%	40	3050
Jones Ferry Rd east of NC 54 EB Ramps	11/4/2020	35	34.9	51.5%	42	8900
Hillsborough northwest of Bel Arbor Dr	3/3/2021	35	35.2	53.0%	41	1800
N Greensboro east of Cheek St	9/17/2019	35	35.4	58.0%	41	6500
N Greensboro northwest of Thomas Ln	9/17/2019	35	34.5	58.0%	40	7800
S Greensboro north of Two Hills Dr	2/3/2021	35	33.2	65.0%	39	7800
JFR east of Alabama Ave	11/11/2020	35	35.5	66.7%	42	6600
Hillsborough southeast of High St	3/3/2021	35	32.5	68.0%	39	2300
N Greensboro west of Robert Hunt	11/7/2018	35	34.9	72.0%	38	6700
Hillsborough northwest of N Greensboro St	11/7/2018	35	30.6	84.0%	36	7200

*These locations are at the transition from a higher speed limit to a lower speed limit

Town of Carrboro - Speed Limits



Posted Speed

- 15
- 20
- 25
- 30
- 35
- 40
- 45

Potential Downtown Slow Zone



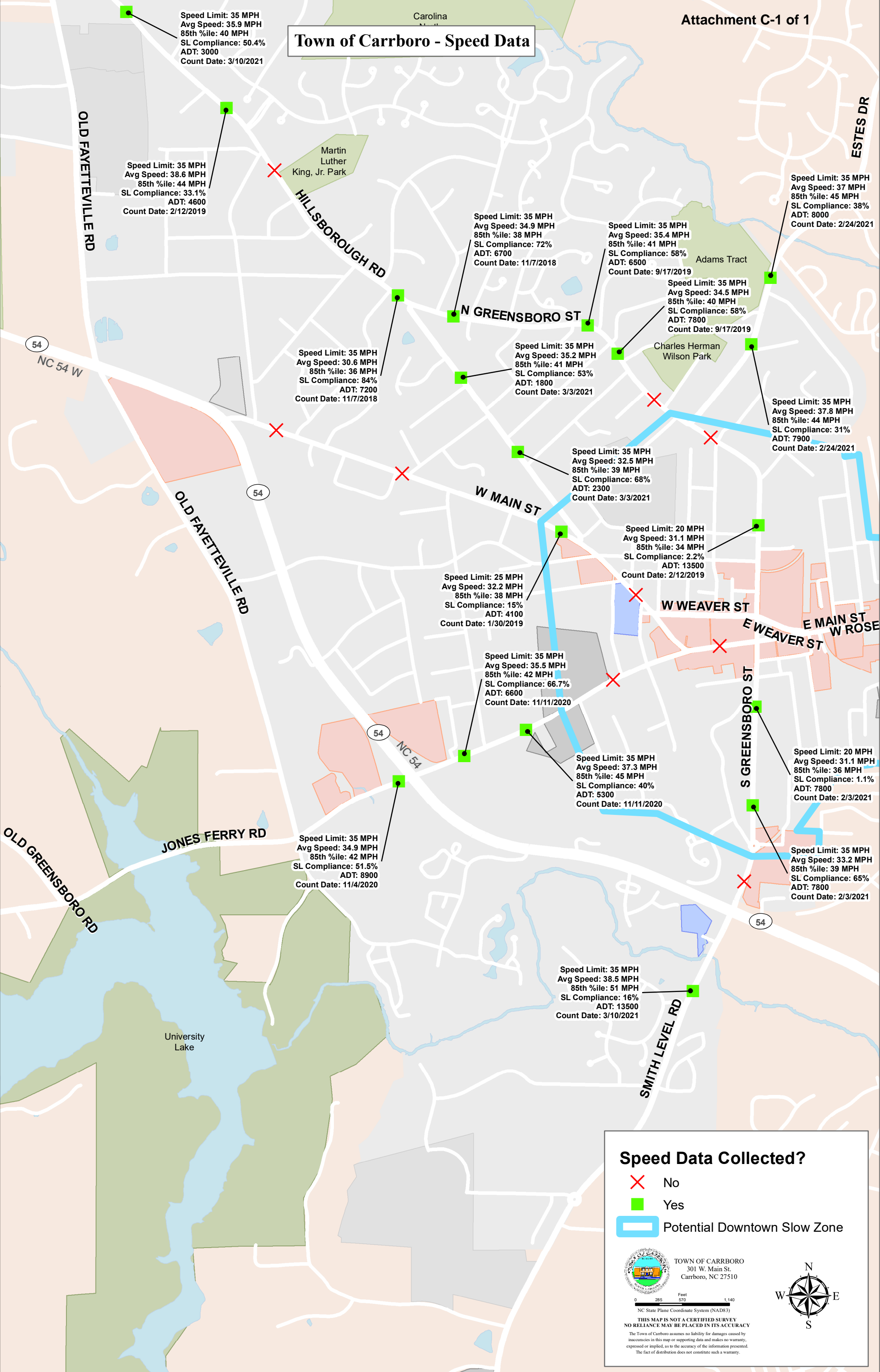
TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27510

0 180 360 720
Feet
NC State Plane Coordinate System (NAD83)

THIS MAP IS NOT A CERTIFIED SURVEY
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inaccuracies in this map or supporting data and makes no warranty,
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Town of Carrboro - Speed Data




Town of Carrboro - Speed Limit Compliance

Speed Limit Compliance

- <20%
- 20-40%
- 40-60%
- 60-80%
- >80%

Town Limits

Potential Downtown Slow Zone




TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27510

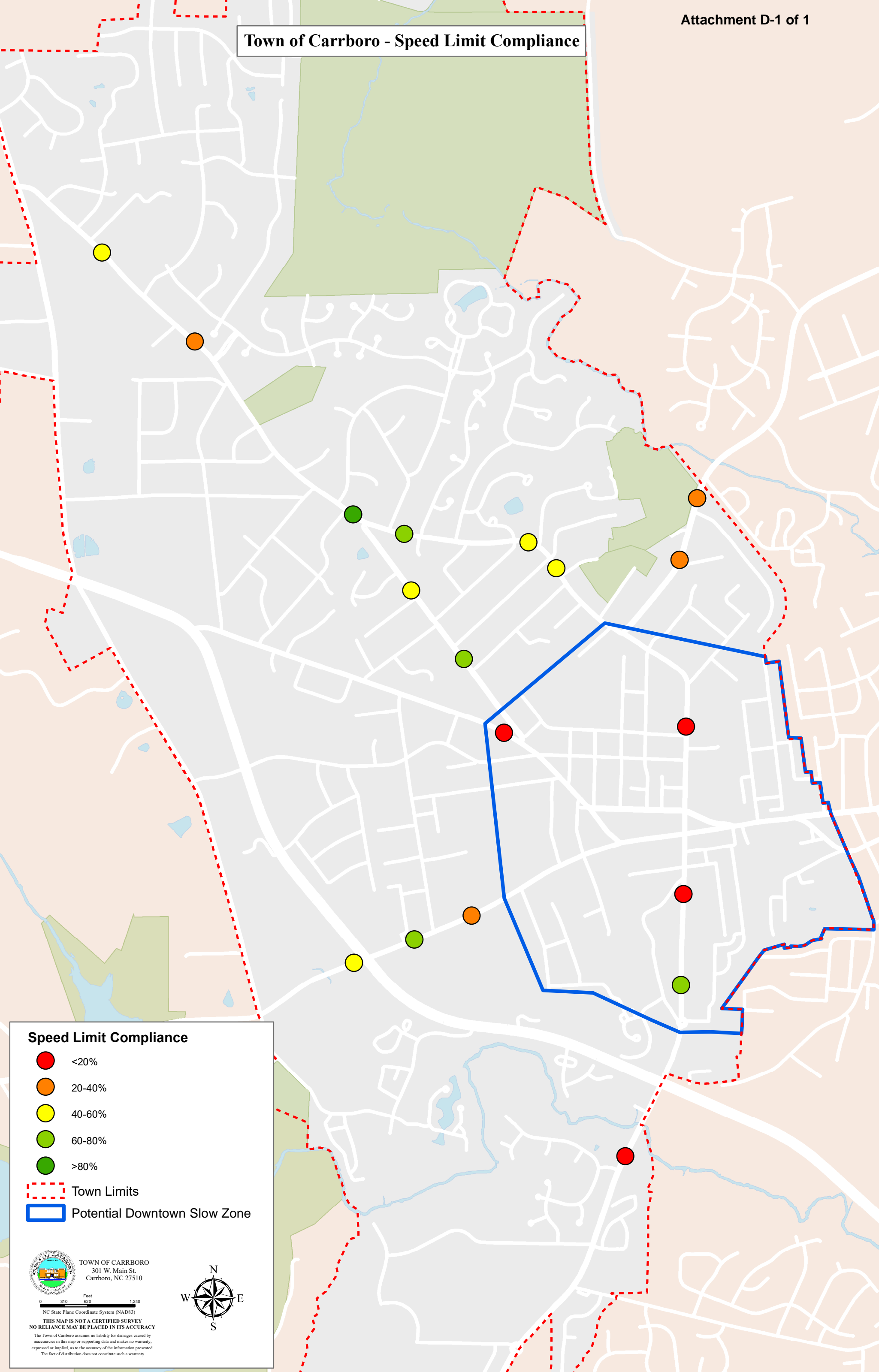
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NC State Plane Coordinate System (NAD83)

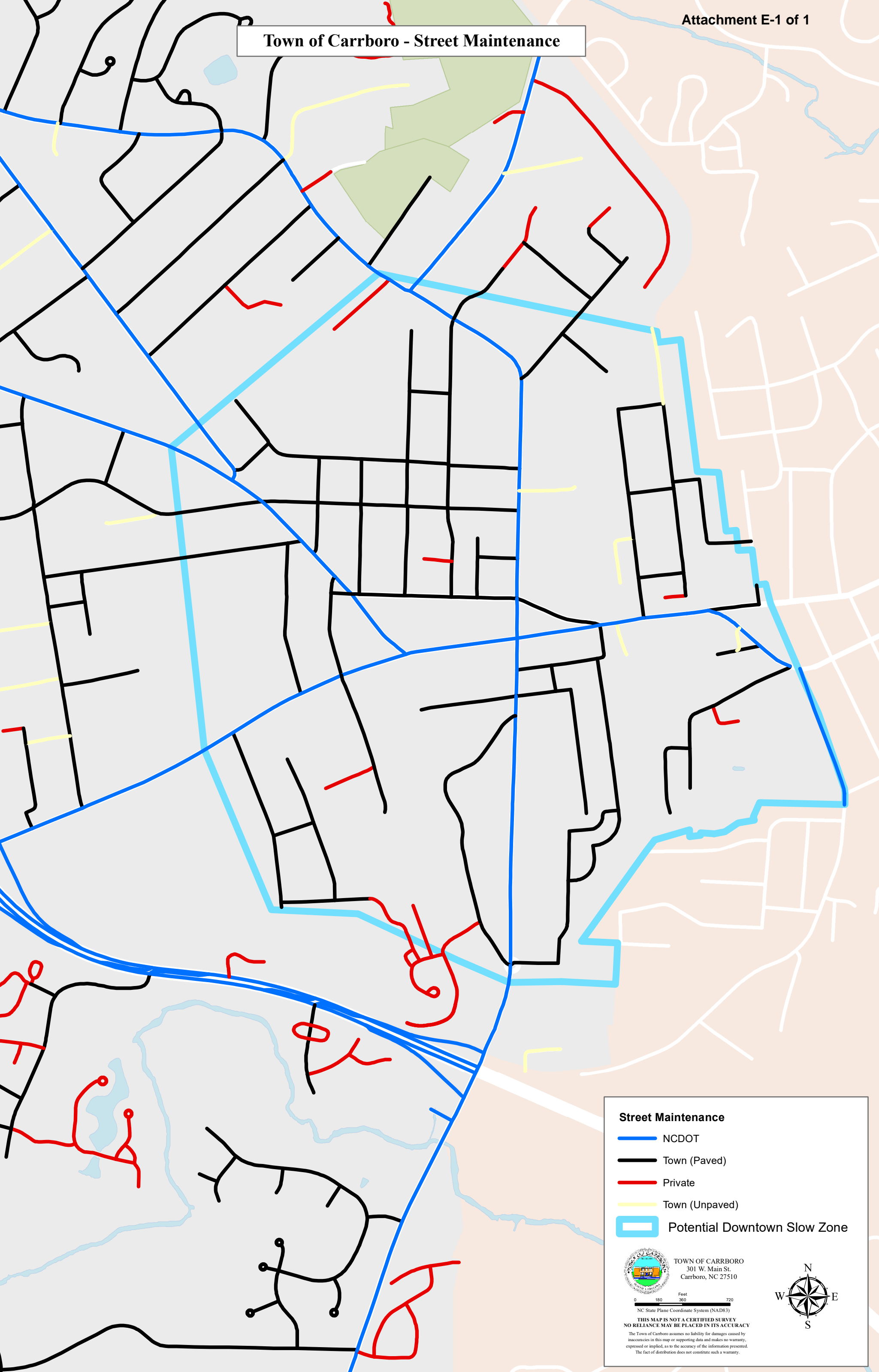
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Town of Carrboro - Street Maintenance



Street Maintenance

- NCDOT
- Town (Paved)
- Private
- Town (Unpaved)
- Potential Downtown Slow Zone




TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27510

0 180 360 720 Feet

NC State Plane Coordinate System (NAD83)

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Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:21-93

Agenda Date: 4/6/2021

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Information on Text Amendments Required as part of G.S. Chapter 160D, Part 3

PURPOSE: The purpose of this item is provide the Town Council with the third installment of draft text amendments to the Land Use Ordinance required by the adoption of G.S. Chapter 160D.

DEPARTMENT: Planning Department

CONTACT INFORMATION: Christina Moon - 919-918-7325, cmoon@townofcarrboro.org <<mailto:cmoon@townofcarrboro.org>>; Marty Roupe - 919-918-7333, mroupe@townofcarrboro.org <<mailto:mroupe@townofcarrboro.org>>; Patricia McGuire - 919-918-7327, pmcguire@townofcarrboro.org <<mailto:pmcguire@townofcarrboro.org>>; Nick Herman - 919-929-3905, gnherman@broughlawfirm.com <<mailto:gnherman@broughlawfirm.com>>

INFORMATION: This agenda item provides the third update on the preparation of amendments to the Land Use Ordinance to conform with new regulations from the adoption of Chapter 160D. As noted previously, since amendments are numerous and will be made throughout the Land Use Ordinance, a plan and schedule was offered to bundle the changes by topical areas and present in a series of installments during the winter/spring in preparation for a single public hearing in May/June. The schedule is designed to allow time for the Council to ask questions or request additional information so that action on the required amendments can occur before the deadline of July 1, 2021.

Agenda materials include a draft ordinance that incorporates all the currently anticipated changes for eight articles: I, II, XIII-XVI, XVIII and XIX (*Attachment A*). A copy of the working table providing information on the purpose of the change and specific section/provision(s) to be amended is provided as (*Attachment B*) and full copies of articles I, II, XIII-XVI, XVIII and XIX with the changes shown using the tracking tool are included as (*Attachments C-J*).

Information from the previous installment on January 26th including full copies of articles III, IV, V, XVII, XX, and XXI, with proposed changes shown in tracking may be found here: ([Town of Carrboro - Meeting of Town Council on 1/26/2021 at 7:00 PM \(legistar.com\)](https://carrboro.legistar.com/MeetingDetail.aspx?ID=823936&GUID=D387AE20-BC4A-444C-A4C3-58F350776615&Options=&Search=>) <<https://carrboro.legistar.com/MeetingDetail.aspx?ID=823936&GUID=D387AE20-BC4A-444C-A4C3-58F350776615&Options=&Search=>>>). Materials from February 16th including full copies of articles VI-XII may be found here: [Town of Carrboro - Meeting of Town Council on 2/16/2021 at 7:00 PM \(legistar.com\)](https://carrboro.legistar.com/MeetingDetail.aspx?ID=823939&GUID=3D78913E-0653-46D9-A733-8346B5C8DC69&Options=&Search=>) <<https://carrboro.legistar.com/MeetingDetail.aspx?ID=823939&GUID=3D78913E-0653-46D9-A733-8346B5C8DC69&Options=&Search=>>>.

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Version: 1

It should be noted that the materials in the agenda packet are still in draft form. Additional revisions may be required as staff continues to review Chapter 160D and the associated updates in S.L. 2020-15 with the Town Attorney. Any substantive changes will be identified in the public hearing materials.

FISCAL & STAFF IMPACT: Staff and Town Attorney time and costs are associated with the preparation of this item; public notice costs and staff time will be associated with the future public hearing and advisory board review.

RECOMMENDATION: Staff recommends that the Town Council review the material and ask questions of staff and/or the Town Attorney as part of the discussion at the meeting.

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO CONFORM
WITH RECENT CHANGES IN STATE LEGISLATION RELATING TO THE ADOPTION OF
CHAPTER 160D

****DRAFT 03-30-2021****

THE CARRBORO TOWN COUNCIL ORDAINS:

Section 1. Section 15-2, Authority, is amended to update the references to the North Carolina General Statutes to read as follows:

Section 15-2 Authority.

This chapter is adopted pursuant to the authority contained in Article 2 of N.C.G.S. Chapter 160D; Article 21 (Part 6) of G.S. Chapter 143; G.S. 143-215.6A; G.S. 143-214.5; Article 4 of G.S. Chapter 113A; as well as Chapter 527 of the Session Laws of 1953; Chapters 122 and 136 of the Session Laws of 1963; Chapter 260 of the Session Laws of 1977; Chapter 753 of the Session Laws of 1979; Chapters 233 and 476 of the 1987 Session Laws; Chapters 216 and 484 of the 2009 Session Laws; and other state and local laws. **(AMENDED 4/27/82; (REWRITTEN 6/26/12).**

Section 2. Section 15-3, Jurisdiction, is rewritten to read as follows:

Section 15-3 Jurisdiction.

(a) This chapter shall be effective throughout the town's planning jurisdiction. The town's planning jurisdiction comprises the area described by Chapters 122 and 636 of the Session Laws of 1963, as modified from time to time in accordance with Section 160D-200; 202; 903 of the North Carolina General Statutes.

(b) If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may, by mutual agreement and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments in accordance with the process described in G.S. 160D-203.

(c) In addition to other locations required by laws, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the planning department. Maps may be maintained either in paper or digital format and shall be available for public inspection in the Planning Department.

Section 3. Section 15-6, Relationship to Land Use Plan is rewritten to read as follows:

Section 15-6 Relationship to Comprehensive Plan, Land Use Plan and other Adopted Plans.

(a) Pursuant to the intent and requirements of G.S. 160D-501, the Town shall adopt a Comprehensive Plan setting forth the goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town. The Comprehensive Plan may, among other topics, address any of the following: land use, economic sustainability, affordable housing, recreation, parks and open space, transportation, water and wastewater, energy and utilities, environmental systems and resilience, stormwater management, and public services.

- (1) The adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601 and Article XX of this chapter.
- (2) The comprehensive plan shall periodically be reviewed and maintained to ensure the relevance of the policies to current and projected conditions.

(b) It is the intention of the Town Council that this chapter implement the planning policies adopted by the Council for the town and its extraterritorial planning area, as reflected in the Comprehensive Plan, Land Use Plan and other planning documents. While the Council reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

- (1) If an amendment to the Official Zoning Map is adopted and the action is deemed inconsistent with the adopted Comprehensive Plan, the Official Zoning Map amendment shall have the effect of also amending the Future Land Use Map of the Comprehensive Plan.
- (2) In such case, no additional application or fee for an amendment to the Comprehensive Plan shall be required of the applicant.

Section 4. Subsection 15-8(a), Fees, is amended to delete the reference to conditional use permits.

Section 5. Section 15-15 (Basic Definitions and Interpretations) of the Carrboro Land Use Ordinance is amended by adding twenty-one new definitions and modifying eight existing definitions, “conditional use permit,” “developer,” development,” “planning and development regulation,” “special use permit,” “subdivision,” and “wireless facility”, as shown below, and by renumbering the entire section in alphabetical order.

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this chapter, also referred to as administrative determinations.

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

BONA FIDE FARM. Agricultural activities as set forth in G.S. 160D-903.

CHARTER. As defined in G.S. 160A-1(2).

COMPREHENSIVE PLAN. A comprehensive plan that has been officially adopted by the Town Council pursuant to G.S. 1660D-501.

CONDITIONAL USE PERMIT. A permit that was issued by the Town Council, prior to January 1, 2021, authorizing the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Town Council. Pursuant to N.C.G.S. Chapter 160D, all valid conditional use permits were automatically converted to a class A special use permits on January 1, 2021. See also special use permit.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

DETERMINATION. A written, final, and binding order, requirement, or determination regarding an administrative decision.

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT. Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to this chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to N.C.G.S. Chapter 160D, this chapter or the Town Code or Town charter.

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. This term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this chapter. [See Article VI.]

INTERESTED PERSON. For purposes of quasi-judicial evidentiary hearings an interested person or party is one who has standing as defined in G.S. 160D-1402(c). [See Article VI].

LANDOWNER OR OWNER. The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as the agent or representative for the purpose of making applications for development approvals.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under N.C.G.S. Chapter 160D, and Article XX of this chapter. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of N.C.G.S. Chapter 160D.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision. [See Article XX.]

MULTI-PHASE DEVELOPMENT. A development containing 25 acres or more that is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

MANUFACTURED HOME. A structure as defined in G.S. 143-145(7). [See also Mobile Home.]

PLANNING AND DEVELOPMENT REGULATION JURISDICTION. The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development pursuant to the authority granted in Article 2 of Chapter 160D of the N.C. General Statutes and Chapter 122 of the Session Laws of 1963. (AMENDED 6/22/82)

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board, Town Council or board of adjustment, to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

SITE SPECIFIC VESTING PLAN. A plan approved by the Town Council that describes, with reasonable certainty, using a combination of graphic illustrations and written notes, the type and intensity of use for a specific parcel or parcels of property located within the Town's planning jurisdiction. Conditional districts, special use permits and zoning permits can be approved as site specific vesting plans by the Town Council following a legislative decision process in accordance with G.S. 160D-108. [See Article VIII.]

SPECIAL USE PERMIT. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits.

SUBDIVISION. The division of a tract of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions: (i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal

to or exceed the minimum standards set forth in this chapter, (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or (iii) the public acquisition by purchase of strips of land for widening or opening of streets or for public transportation system corridors; or (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter; or (v) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the N.C.G.S.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. Also refers to Wireless Telecommunications Facility. The term shall not include any of the following: **(AMENDED 6/23/20)**

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (4) Amateur radio antennas. See also, Section 15-150(5) Towers and antennas constructed on residential property and G.S. § 160D-931

ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

Section 6. Article XIII, Recreation Facilities and Open Space, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 7. Subsection 15-202(b), is rewritten to read as follows:

(b) Whenever the permit issuing authority authorizes some deviation from the standards set forth in this article pursuant to subsection (a), the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

Section 8. Article XIV, Streets and Sidewalks, is amended to replace all references to the 'Board of Aldermen,' or 'Board' with the 'Town Council,' or 'Council,' respectively.

Section 9. Subsection 15-216(d1) is amended to replace the reference to a conditional use permit to a class A special use permit.

Section 10. Subsection 15-216(e) is rewritten to read as follows:

(e) The Council may allow a deviation from the right-of-way minimums set forth in subsections (b) and (c) if it finds that (i) the deviation is needed because in order for a development to be served by a public street the street must be constructed within an area that is not of sufficient width to comply with the right-of-way criteria set forth above, (ii) a street that meets the pavement width criteria and substantially complies with the other criteria set forth above can be constructed within the right-of-way that can be made available; and (iii) that the applicant has shown that he has made a reasonable effort and attempted to purchase the necessary right-of-way.

Section 11. Section 15-236, Utility Ownership and Easement Rights, is amended to include ‘fiber optic cable or conduit’ in the list of utilities installed by a developer and intended to be owned, operated or maintained by a public utility or entity other than the developer.

Section 12. The table in Subsection 15-239(b), Determining Compliance With Section 15-238 is amended to change the reference to the Division of Environmental Management of the NC Department of Natural Resources and Community Development to the NC Department of Environmental Quality (DEQ).

Section 13. The table in Subsection 15-240(b), Determining Compliance With Section 15-240 is amended to change the reference to the Division of Health Services of the NC Department of Human Resources to the Division of Public Health of the NC Department of Health and Human Services.

Section 14. Section 15-242, Purpose and Intent, is amended to change the reference to the Board to the Town Council.

Section 15. Subsection 15-242.5(b), General Standards, is amended to change the name for a conditional use permit to a class A special use permit.

Section 16. Subsection 15-242.5(g), General Standards, is amended to replace the word Board with Council.

Section 17. Section 15-246, Underground Utilities is rewritten to read as follows:

Section 15-246 Underground Utilities.

(a) All electric power lines, (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters or capacitors which may be pad mounted), telephone, gas distribution, fiber optic cable or conduit, and cable television lines in subdivisions developed after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility companies and located in accordance with Appendix C, Standard Drawing No. 6 or No. 7.

(b) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this chapter, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies. **(AMENDED 1/22/85)**

(c) Notwithstanding the foregoing, a developer or builder is not required to bury power lines meeting all of the following criteria:

- (1) The power lines existed above ground at the time of first approval of a plat or development plan, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

Section 18. Article XVI, Flood Damage Prevention, Stormwater Management, and Watershed Protection, is amended by changing the names of ‘conditional use permits’ and ‘special use permits’ to ‘class A special use permits’ and class B special use permits.’

Section 19. Section 15-251.1, Definitions, is amended by correcting an error in definition (63), Substantial Damage, to read as follows:

63. Substantial Damage. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “Substantial Improvement.”

Section 20. The first paragraph under Section 15-251.6, Duties and Responsibilities of the Administrator is amended to be gender neutral, as follows:

As set forth in Part I of Article IV of this chapter, development permits (including permits for development within Special Flood Hazard Areas), shall not be issued unless the requirements of this chapter have been satisfied. In addition to permit responsibilities, the administrator’s responsibilities relating to the administration and enforcement of the provisions of this part shall include but shall not be limited to the following duties:

Section 21. Article XVIII, Parking, is amended to replace all references to the ‘Board of Aldermen,’ or ‘Board’ with the ‘Town Council,’ or ‘Council,’ respectively.

Section 22. Article XVIII, Parking, is amended by changing the names of ‘conditional use permits’ and ‘special use permits’ to ‘class A special use permits’ and class B special use permits.’

Section 23. Subsection 15-291(g), Number of Parking Spaces Required is amended by deleting the reference for 1 space per room plus additional space for restaurant or other facilities in the table under use 23.000, temporary structure or parking lots used in connection with the construction of a permanent building or for nonrecurring purpose.

Section 24. Article XIX, Screening and Trees, is amended to replace all references to the ‘Board of Aldermen,’ or ‘Board’ with the ‘Town Council,’ or ‘Council,’ respectively.

Section 25. Article XIX, Screening and Trees, is amended by changing the names of ‘conditional use permits’ and ‘special use permits’ to ‘class A special use permits’ and class B special use permits.’

Section 26. The first paragraph of Subsection 15-319(a), Minimum Canopy Coverage Standards is rewritten to read as follows:

(a) **Minimum Canopy Coverage Standards**

Subject to the remaining provisions of this section, the following minimum tree canopy coverage percentages are required within the boundaries of every lot or tract for which a zoning, special use, or conditional use permit was issued after June 24th, 2014 or a class A or class B special use permit is issued after July 1, 2021, exclusive of required cleared active recreation areas, water bodies, access easements, public and private right-of-way, stormwater and utility easements.

Section 27. The N.C.G.S. citation in subsection (a) under 15-321.1, Regulations of Forestry Activities is changed from G.S.160A-458.5 to G.S. 160D-921.

Section 28. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 29. This ordinance shall become effective upon adoption.

DRAFT

Draft ORD. No.	Chapt 160D Subject/Topic	Status	Purpose	Recommended Action	LUO Article or Town Code Chapter	Specific Citation(s)
	Land Use Administration General	Required	<u>Chapter 160D Requirement.</u> Update citations.	Amendments needed to reflect new citations. Consult with Town Attorney to ensure that all appropriate citations are included.	Article I	15-2 15-3
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article I	15-6
			Town administrative update.	Delete reference to conditional use permits.	Article I	15-8
	Land Use Administration General		<u>Chapter 160D Requirement.</u> Update definitions.	Add new definitions and/or modify existing definitions to comply with 160D. Amendments to Chapter 17 of the Town Code, Housing Code may also be needed.	Article II	15-15
	Boards	Required	<u>Chapter 160D Requirement.</u> Must keep minutes of proceedings of each board. (G.S. 160D-308.)	No change needed. The Rules of Procedure for Town of Carrboro Boards and Commissions was adopted as an administrative policy, 11-21-2017. http://www.townofcarrboro.org/DocumentCenter/View/5357/-Rules-of-Procedure-for-Town-of-Carrboro-Boards-and-Commissions-Approved-11-21-17		
	Boards	Required	<u>Chapter 160D Requirement.</u> Must update ETJ population estimate, at least with each decennial census (also calculation for proportional representation is simplified and process for appointment is clarified). (G.S. 160D-307.)	Amend Article III with new provisions (a1) under the appointments and terms for the planning board (15-21(a1), and board of adjustment (15-29(a1) to meet requirement; boards where ETJ membership is a requirement part of the make up of the board. Consulting with Town Attorney as to whether similar language is needed for other advisory boards, such as the appearance commission and boards described in the Town Code.	Article III	15-21(a1) 15-29(a1)
	Boards	Required	<u>Chapter 160D Requirement.</u> Must provide proportional representation for ETJ on preservation commission if any districts or landmarks are designated in the ETJ. (G.S. 160D-307.)	Add a new provision 15-42(d1) under the Article III, Part V. for the appointment and terms of Appearance Commission, to include an ETJ membership requirement when a local historic district(s) is located in the ETJ.	Article III	15-42(d1)
	Boards	Required	<u>Chapter 160D Requirement.</u> Must have each board member take an oath of office before starting his or her duties. (G.S. 160D-309.)	Amend LUO Article III, PART VII. Membership Limitations on Boards, Committees, Advisory Groups, and Commissions with a new provision to require incoming advisory board members to receive the oath of office before begining to serve their duties. Requirement is provided in one central place for all advisory boards in association with the appointment process rather than repeated under the appointment language for each board. A less formal option would be to amend the Rules of Procedures for Advisory Board Rules to reflect this requirement.	Article III	Part VII
	Land Use Administration General		<u>Chapter 160D Requirement.</u> New conflict of interest provisions for administrative staff. (G.S. 160D-109(c)	Amendment needed. Add new provisions under the Land Use Administrator to include this new requirement.	Article III	15-37 15-37(a); (b)

			Town administrative update.	Change references for the Board of Aldermen to the Town Council in Article III, Administration Mechanisms.	Article III	15-21(a), in two places; 15-25(a)(1); 15-25(a)(2); 15-25(a)(3); 15-25(a)(5); 15-26(a) in two places; 15-26(b); 15-26(c) in two places; 15-26(d); 15-27(a) in three places; 15-27(h)(1), 15-27(h)(4); 15-27(h)(8); 15-29(a) in three places; 15-29(e); 15-38(b) in two places Part IV title; 15-40; 15-40(a); 15-40(b); 15-40(c) 14-52(a); 15-42(d) in two places; 15-44(a)(3); 15-44(a)(4); 15-44(a)(6); 15-44(b); 15-44(c); 15-45(a); 15-45(c)(3); 15-45.2(a); 15-45.2(d)
			Town administrative update.	Use gender neutral language. Remove references for chairman and vice chairman and replace with chair and vice chair.	Article III	15-21(e)(1); 15-21(e)(2) in four places; 15-24(a); 15-29(d)(1); 15-29(d)(2) in four places; 15-30(b); 15-33(a); 15-33(b); 15-42(c)(2) in three places 15-30(b); 15-29(d)(1); 15-29(d)(2) in four places; 15-33(a); 15-33(b);
			Town administrative update.	Amend LUO Section 15-22 to change CUP and SUP to Class A SUP and Class B SUP	Article III	15-22(e); 15-25(a) in three places; 15-40(a); 15-40(c)
			Town administrative update.	Amend LUO Section 15-25(a) to add a new provision (4) to include make recommendations to Board of Adjustment concerning class B sup to list of Planning Board duties, and renumber existing provision (4) to (5).	Article III	15-25(a)(4)
			Town administrative update.	Amend LUO Section 15-26 to update list of examples of long range planning documents; use this updated list throughout chapter.	Article III	15-26(a)

			Chapter 160D Requirement. Resolution of Objection. (G.S. 160D-109(e)).	Amendment needed, Subsection 15-32(f) is rewritten.	Article III	15-32
	Substance of Zoning Ordinance	Required	<u>Chapter 160D Requirement.</u> Must maintain current and prior zoning maps for public inspection (local government clerk or other office may be the responsible office); may adopt and maintain in paper or digital format. (G.S. 160D-105.)	Minor amendment provided in Article IX, Zoning Districts and Zoning Map, Part II. Zoning Map. New phrase or sentence under either 15-143(b) of 15-143(d) to clarify the historical and current copies of the zoning map shall be maintained in paper and digital forms.	Article IX	15-143(b)
	Substance of Zoning Ordinance	Required	<u>Chapter 160D Requirement.</u> Must eliminate conditional use district zoning; existing conditional use district zoning converts to conditional district on January 1, 2021 upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)	Amendments needed. New provision (a1) added under 15-46 in Article IV, Permits and Final Plat Approvals, to indicate the automatic conversation to Conditional Districts. Add a new provision under the Section 141.3 Conditional Use Districts to indicate the automatic conversation to Conditional Districts--to match language in 15-46(a1) and repeal section. Review districts in Article IX, Zoning Districts and Zoning Maps and modify as needed, 3, specific districts such as the O/A, conditional use district and associated references throughout the ordinance. Scan LUO and make other updates as needed.	Article IV Article IX	15-46(a1) 15-141.3
	Substance of Zoning Ordinance	Required	<u>Chapter 160D Requirement.</u> Must not set a minimum square footage for structures subject to the One- and Two-Family Residential Building Code. (G.S. 160D-703; S.L. 2019-174.)	Possible amendment to Chapter 17 of the Town Code, Housing Code, 17-6, Space and Use	Chapter 17 of Town Code	17-6
	Substance of Zoning Ordinance	Optional	<u>Chapter 160D Option.</u> May incorporate maps officially adopted by state or federal agencies (such as flood-insurance rate maps (FIRMs)) into the zoning map; may incorporate the most recent officially adopted version of such maps so that there is no need for ordinance amendment for subsequent map updates; must maintain current effective map for public inspection; may maintain in paper or digital format. (G.S. 160D-105.)	No change needed. 15-251.2(b)(1) provides for such incorporation. (1) Those Special Flood Hazard Areas that are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Orange County, dated 09/26/2017, which are adopted by reference and declared to be a part of this ordinance. (AMENDED 09/26/17)	Article XVI	15-251.2(b)(1)

	Substance of Zoning Ordinance	Optional	<u>Chapter 160D Option.</u> May require certain dedications and performance guarantees for zoning approvals to the same extent as for subdivision approvals. (G.S. 160D-702.)	Amendments needed. G.S. 160D-702 allows local governments to use performance guarantees for zoning approvals, consistent with the provisions for performance guarantees for subdivision approvals, as provided for in G.S. 160D-804(g). Additional language needed to conform the existing standards for performance guarantees for zoning permits (15-53) and SUPs (15-60(s), and subdivisions (15-60(b)) to the standards in 160D-804.	Article IV	15-53 (zoning permits) 15-60(a) (special use permits)
	Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> Must conform subdivision performance guarantee requirements with statutory standards. (G.S. 160D-804.1; S.L. 2020-25; S.L. 2019-79 (S.B. 313), to be incorporated into G.S. Chapter 160D.)	Language added in 15-60(b) to clarify maximum amount and allowable uses for bond money.	Article IV	15-60(b) subdivisions
	Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> Must conform subdivision procedures for expedited review of certain minor subdivisions. (G.S. 160D-802, established prior to G.S. Chapter 160D.)	Amendment needed. New section 15-78.1 added which provisions related to expedited review provided directly from the language in 160D-802.	Article IV	15.78.1
			Town Administrative Update	Amendments needed. Fiber optic infrastructure needs to be added to Article XVI.	Article XV	15-236 15-246
			Town Administrative Update	Amendments needed to update the state government reviewing/permitting agencies.	Article XV	15-239 (b) - Table 15-241(b) - Table
	Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> Must not require a developer, as a condition to subdivision approval, to bury a power line existing above ground and outside of property to be subdivided. (G.S. 160D-804(h); S.L. 2020-25.)	Amendment needed. Add new provision (c) under 15-246 to list exemptions as provided in 160D as amended in S.L. 2020-25.	Article XV	15-246
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XV	
			Town administrative update.	Change CUPs to class A SUP	Article XV	15-242.5(b)

Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> Must exempt farm use on bona fide farm in ETJ from city zoning to the same extent it would be exempt from county zoning; Chapter 160D clarifies that other municipal development regulations may still apply. (G.S. 160D-903(c).)	Amendments needed. Bona fide farm definition added to Section 15-15. New provision 15-46(f) added with language clarifying exemption.	Article III	15-46(f)
Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> Must not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)	Add definition of manufactured home from 160D to definitions in Article II. Amend table of permissible uses in Section 15-146 to allow manufactured homes.	Article II Article X	15-15 15-146
Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> Must follow standardized process for housing code enforcement to determine owner's abandonment of intent to repair and need for demolition. (G.S. 160D-1203(6).)	Review language in the Housing Code, Chapter 17 of the Town Code. Amendment may be needed.	Chapter 17 of Town Code	
Substance of Other Development Ordinances	Required	<u>Chapter 160D Requirement.</u> May adopt moratoria for development regulations (subject to limitation on residential uses); moratoria do not affect rights established by permit choice rule. (G.S. 160D-107.)	No amendment needed. The Town will follow requirements if a future moratoria is considered/adopted.	NA	
Development Agreements	Required	<u>Chapter 160D Requirement.</u> Must process a development agreement as a legislative decision. (G.S. 160D-105.)	Consider adding a reference to development agreements and requirement for legislative hearing procedures in Article XX. Note in Article IV and X for "breadcrumbs."	Article IV	
Quasi-Judicial Decisions Procedures	Required	<u>Chapter 160D Requirement.</u> Must follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. (G.S. 160D-102(28).)	Minor amendment provided to include the word "evidentiary" for hearings subject to quasi-judicial proceedings. The existing language described in Article VI describes a quasi-judicial process. This amendment seems to be sufficient for this requirement. Reference to administrative decisions and certificates of appropriateness added for clarity.	Article VI; Article IV; Article V; Article XXI	15-101(a)
Quasi-Judicial Decisions Procedures	Required	<u>Chapter 160D Requirement.</u> Must hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing must have testimony under oath; must establish written findings of fact and conclusions of law. (G.S. 160D-406.)	Consistent with the emphasis in 160D that hearings are either evidentiary for quasi-judicial proceedings or legislative hearings for amendments, the terms 'evidentiary' and 'quasi-judicial' have been added throughout Article VI. No substantive change needed. The existing language in 15-101 and 15-103 describes the elements of an evidentiary hearing.	Article VI	15-101
Quasi-Judicial Decisions Procedures	Required	<u>Chapter 160D Requirement.</u> Board chair must rule at the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling may be appealed to the full board. (G.S. 160D-406(d).)	Amendment needed. New subsection added to 15-103, Evidence.	Article VI	15-103(d)
Quasi-Judicial Decisions Procedures	Required	<u>Chapter 160D Requirement.</u> Must allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; may allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)	Amendment needed. New provisions added relating to evidence and standing.	Article VI	15-103(b)(1) & 15-103(b)(2) 15-104, 15-107.

Quasi-Judicial Decisions Procedures	Optional	<u>Chapter 160D Option.</u> May continue an evidentiary hearing without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened; if quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no notice. (G.S. 160D-406(b).)	No amendment needed for continuation; existing language in Section 101(d) provides for this. New provision (e) added to provide for continuation if a quorum is not present.	Article VI	15-101(d) 15-101(e)
Quasi-Judicial Decisions Procedures	Optional	<u>Chapter 160D Option.</u> May distribute meeting packet to board members in advance of the evidentiary hearing; if this is done, then must distribute the same materials to the applicant and landowner at the same time; must present such administrative materials at the hearing and make them part of the hearing record. (G.S. 160D-406(c).)	Amended added for clarity. New subsection added as 15-102.1 added under the procedure for evidentiary hearing in Article VI.	Article VI	15-102.1
Quasi-Judicial Decisions Procedures	Optional	<u>Chapter 160D Option.</u> May have the planning board serve as a preliminary forum for review in quasi-judicial decisions; if this is done, the planning board must not conduct a formal evidentiary hearing, but must conduct an informal preliminary discussion of the application; the forum and recommendation must not be used as the basis for the decision by the board—the decision must still be based on evidence presented at the evidentiary hearing. (G.S. 160D-301.)	No change needed. Existing provisions in the LUO provide for the Planning Board and other advisory boards to review SUP/CUP--revised as Class B Special Use Permits in 15-56 (Board of Adjustment) and Class A Special Use Permits in 15-57 (Town Council).	Article IV	15-56(c); 15-57
Quasi-Judicial Decisions Procedures	Be Aware	<u>Additional Information.</u> Be aware that even if there is no objection before the board, opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value and traffic impacts. (S.L. 2019-111, § 1.9.)	No change needed. Included in the table for information. Language could be added for clarity to members of the public.	Article VI	15-103
Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	Must not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. (G.S. 160D-705(c); S.L. 2019-111, Pt. I.)	The existing language in 15-59, seems to state this limit, but an additional provision (1) has been added for clarity.	Article IV	15-59(b)(1)
Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	Must obtain applicant's/landowner's written consent to conditions related to a special use permit to ensure enforceability. (G.S. 160D-1402(k); G.S. 160D-1403.2; S.L. 2019-111, Pt. I.)	Additional provision (2) has been added under 15-59(b) to clarify this requirement.	Article IV	15-59(b)(2)
Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	Must set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)	No change needed. Subsection 15-91 seems to cover all decisions. Addition of "administrative decisions" to 15-101(a) provides "bread crumb" to the articles relating to appeals. Can add language relating to the three day mailing if needed.	Article V	15-91(d) 15-101(a)
Quasi-Judicial Decisions Certain Quasi-Judicial Decisions	Required	May use purely legislative conditional zoning and/or quasi-judicial special use permitting; must not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)	Amendments needed. New provision (a1) added under 15-46, Permits Required, stating that existing conditional use districts automatically converted to conditional districts. Existing subsection 15-59(d) repealed. Additional language added in Article IX, Zoning Districts and Zoning Map.	Article IV	15-46(a1)

	Administrative Decisions Development Approvals	Required	Must provide development approvals in writing; may provide in print or electronic form; if electronic form is used, then it must be protected from further editing. (G.S. 160D-403(a).)	Amendment added for clarity. New sentence at the end of provision 15-46(b) added. Existing Section 15-106 currently requires written decisions for quasi-judicial descisions. The language in 160D-403 suggests that a written decision is needed for administrative decisions--zoning permits as well.	Article IV Article VI	15-46(b) 15-106
	Administrative Decisions Development Approvals	Required	Must provide that applications for development approvals must be made by a person with a property interest in the property or a contract to purchase the property. (G.S. 160D-403(a).)	Additional language added to Section 15-48, Who May Submit Permit Application, to list all the potential applicants stated in the Chapter 160D.	Article IV	15-48
	Administrative Decisions Development Approvals	Required	Must provide that development approvals run with the land. (G.S. 160D-104.)	No change needed. Section 15-63, Effect of Permit on Successors and Assigns provides for permits to runs with the land so long as the permit continues to be used for the purposes for which the permit was granted.	Article IV	15-63
	Administrative Decisions Development Approvals	Required	For revocation of development approval, must follow the same process as was used for the approval. (G.S. 160D-403(f).)	No change needed. Section 15-115, Permit Revocation and Building Permit Denial speaks to the process for revocation. Subsection (b) speaks to the same process for special use permits as the approval process in Article VI.	Article VII	15-115(b)
	Administrative Decisions Determinations	Required	Must provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)	No change needed. Relating to special use permits, the process is described in 15-115(b) as the same for approval which includes written and posted notice and written determination. Provisions relating to notice outlined in 15-115(b) for SUPs and 15-115 (c) for zoning permits. New language added to 15-46(b) clarifies written approval for zoning permits.	Article VII	15-115(b); 15-115(c)
	Administrative Decisions Determinations	Optional	May require owner to post notice of determination on the site for ten days; if such is not required, then owner has option to post on the site to establish constructive notice. (G.S. 160D-403(b).)	No change needed. Article 15-91(e) speaks to the posting of a sign meeting specific criteria.	Article V	15-91(e)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must allow administrative decisions of any development regulations (not just zoning) to be appealed to the board of adjustment, unless provided otherwise by statute or ordinance. (Appeals relating to erosion and sedimentation control, stormwater control, or building code and housing code violations are not made to the board of adjustment unless specified by local ordinance.) (G.S. 160D-405.)	No change needed. The existing language under Section 15-91, Appeals, seems to cover all decisions. For clarity, however, "administrative decisions" has been added to the list of matters in subsection 15-101(a), Hearing Required on Appeals and Applications.	Article V Article VI	15-91 15-101(a)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(c).)	No change needed. Existing language under Section 15-91 sufficient.	Article V	15-91(d)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must require the official who made the decision (or his or her successor if the official is no longer employed) to appear as a witness in the appeal. (G.S. 160D-406.)	No change needed. Existing language in 15-91(i) states that the administrator shall be present at the hearing as a witness.	Article V	15-91(i)
	Administrative Decisions Appeals of Administrative Decisions	Required	Must pause enforcement actions, including fines, during the appeal. (G.S. 160D-405(f).)	Amendment needed. Section 15-114(b)(3)(a) currently provides for the collection of civil penalties to be stayed, but not the accrual. Subsection 15-114 to be rewritten to align with the new language is 160D and S.L. 2020-25.	Article VII	15-114(b)(3)
	Administrative Decisions Vested Rights	Optional	May designate that appeals be filed with the local government clerk or another official. (G.S. 160D-405.)	No change needed. Section 15-91(c) provides for an appeal to be filed with the Town Clerk.	Article V	15-91(c)
	Administrative Decisions Vested Rights	Required	Must recognize that building permits are valid for six months, as under prior law. (G.S. 160D-1111 G.S. 160D-108(d)(1).)	No change needed. The Land Use Ordinance does not speak to building permits. Period of approval noted.	NA	

	Administrative Decisions Vested Rights	Required	Must recognize the default rule that development approvals/permits are valid for twelve months, unless altered by statute or extended by local rule adjusted by statute or local rule. (G.S. 160D-108(d)(2).)	No change needed. The LUO provides for approved land use permits to be valid for a period of two years and, subsequently, extended for another period of two years.	Article IV	15-62(a) and 15-62(c)
	Administrative Decisions Vested Rights	Required	Must identify site-specific vesting plans (formerly site-specific development plans) with vesting for two to five years, as under prior law, except for specified exceptions. (G.S. 160D-108.1 G.S. 160D-108(d)(3); -108(f).)	Amendment needed. Provisions for vested rights are outlined in Section 15-128.2, under Article VIII, Nonconforming Situations. See also related vested rights upon issuance of building permits-15-128.3	Article VIII	15-128.2
	Administrative Decisions Vested Rights	Required	Must recognize multi-phase developments—long-term projects of at least 25 acres—with vesting up to seven years, except for specified exceptions (160D-108(c)(d)(4); 108(f).) (The previously authorized phased-development plan is obsolete and should be deleted from ordinance.)	Amendment needed. New language added as subsection (d) under 15-61. Further consultation with the Town Attorney may be needed for addressing all of the elements of this requirement. The existing language relating to phased developments, is in Article IV under permits, and speaks more to the completion of requirements such as recreation facilities that are intended to either serve the entire development versus a particular phase. Vested Rights are discussed in Article VIII under nonconforming situations. It appears that the existing language should be repealed and replaced with the new requirements in 160D.	Article IV; Article VIII	15-61; 15-128.2
	Administrative Decisions Vested Rights	Optional	May provide for administrative determination of vested rights and for appeal to the board of adjustment. (G.S. 160D-108(h)(c), -405.)	The existing language for vested rights in Article VIII provides for zoning permits-in subsection 15-128.2(b). This provision can be reworked into the updated language for vesting.	Article VIII	15-128.2
	Administrative Decisions Permit Choice	Required	Must not make an applicant wait for final action on the proposed change before proceeding if the applicant elected determination under prior rules. (G.S. 143-755; G.S. 160D-108(b).)	Amendment needed. New section 15-49.1 added with language in S.L. 2020-25.	Article IV	15-49.1
	Administrative Decisions Permit Choice	Be Aware	Be aware that if a local development regulation changes after an application is submitted, the applicant may choose the version of the rule that applies; but may require the applicant to comply with new rules if the applicant delays the application for six months. (G.S. 143-755; G.S. 160D-108(b); S.L. 2020-25.)	Amendment needed. New section 15-49.1 added with language in S.L. 2020-25.	Article IV	15-49.1
	Administrative Decisions Permit Choice	Be Aware	Be aware that an application for one development permit triggers permit choice for permits under any development regulation; such permit choice is valid for eighteen months after approval of the initial application. (G.S. 143-755; G.S. 160D-108(b); S.L. 2019-111, Pt. I.)	Article IV, phasing section or Article IV, 15-61. New language will be added in the rewritten section on vested rights: Article VIII.	Article VIII	15-128.2
	Comprehensive Plan	Required	<u>Chapter 160D Requirement.</u> Must adopt a comprehensive plan or land-use plan by July 1, 2022, to maintain zoning (no need to re-adopt a reasonably recent plan). (G.S. 160D-501(a).)	No change needed. Work on the Town's comprehensive plan is underway and scheduled for adoption in time to meet this requirement. The legislative descision process for amendments (text and map) require a deteetermination of consistency/ Once adopted, the comprehensive plan will be a key document for determining consistency	Article XX	

	Comprehensive Plan	Required	<u>Chapter 160D Requirement.</u> Must adopt a plan or a plan update following the procedures used for a legislative decision. (G.S. 160D-501(c).)	Amend Article I, General Provisions, with a new Section 15-10, Relationship to Comprehensive Plan, or establish a subsection to 15-6, Relationship to Land Use Plan, to describe the comprehensive plan and its purpose, the topics it may address and the manner in which it can be adopted and amended--the procedure for legislative decisions set out in Article XX. Include a sentence that the plan must be updated at regular intervals. Amend 15-320(a) to include the comprehensive plan.	Article I	15-10 or 15-6
	Comprehensive Plan	Required	<u>Chapter 160D Requirement.</u> Must reasonably maintain a plan. (G.S. 160D-501(a).)	Include a sentence at the end of the new subsection on the comprehensive plan in Article I, that the plan must be updated at regular intervals.	Article XX Article I	15-320 15-10 or 15-6
	Legislative Decisions Notice	Required	<u>Chapter 160D Requirement.</u> Must follow applicable procedures for legislative decisions under any development regulation authorized under Chapter 160D, not just zoning; must adopt any development regulation by ordinance, not by resolution. (G.S. 160D-601.)	No change needed. The Town currently adopts amendments by ordinance, as is noted under 15-321(a). If needed, 15-325 could be rewritten to say, "In deciding whether to adopt a <u>proposed ordinance to amend</u> this chapter" instead of "In deciding whether to adopt a proposed amendment to this chapter."	Article XX	15-321(a)
	Boards	Required	Chapter 160D Requirement. Must adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)	Amend LUO Section 15-322(d), to expand the conflict of interest provisions for advisory board review of legislative decisions (text & map amendments) to include close familial, business or other associational relationship. Amend LUO Section 15-324(e) to expand the conflict of interest provisions for advisory board review of legislative decisions (text & map amendments) to include close familial, business or other associational relationship.	Article XX	15-322(d) 15-324(e)
	Legislative Decisions Notice	Required	<u>Chapter 160D Requirement.</u> For zoning map amendments, must provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor. (G.S. 160D-602.)	Amend the area subject to receive written notice to include the owners of abutting properties while retaining the existing provisions of 1000 feet of the property so as not to reduce the area if "abutting" properties creates a smaller area for notice. Since the provision for renters is described as a reasonable effort the 1000 feet is left as is.	Article XX	15-323(c)
	Legislative Decisions Notice	Required	<u>Chapter 160D Requirement.</u> For zoning map amendments, must provide posted notice during the time period running from twenty-five days prior to the hearing until ten days prior to the hearing. (G.S. 160D-602(c).)	Amend the Section 15-323(e) to include the 10-25 day window for posting notice.	Article XX	15-323(e)
	Legislative Decisions Notice	Optional	<u>Chapter 160D Option.</u> For extension of ETJ, may use single mailed notice for ETJ and zoning-map amendment pursuant to statutory procedures. (G.S. 160D-202.)	No change needed.	Article XX	

	Legislative Decisions Notice	Optional	<u>Chapter 160D Option</u> . For zoning map amendments, may require applicant to notify neighbors and hold a community meeting and may require report on the neighborhood communication as part of the application materials. (G.S. 160D-602(e).)	The Council has discussed whether to include a neighborhood meeting as part of the conditional zoning process. This could be incorporated into the process as a policy (recommendation listed on a standard checklist), or formally incorporated into the ordinance. If the latter, the description of the conditional zoning process under Article IX, Zoning Districts & Zoning Map seems to be an more appropriate location than Article XX.	Article IX Article XX	
	Legislative Decisions Planning Board Comment	Required	<u>Chapter 160D Requirement</u> . Must refer zoning amendments to the planning board for review and comment; must not have governing board handle planning board duty to review and comment on zoning amendments. (G.S. 160D-604(c), (e).)	No change needed. Section 15-322 refers amendments (zoning or map, and text) to the planning board and other advisory boards.	Article XX	15-322
	Legislative Decisions Planning Board Comment	Required	<u>Chapter 160D Requirement</u> . Must have planning board consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. (G.S. 160D-604(d).)	No change needed. Subsection 15-322(a) refers amendments to the Planning Board and other advisory boards when the matter involves an issue relating to their purview; subsections 15-322(b) directs the Planning Board and other advisory boards to advise and comment on consistency with adopted plans. This section will be amended to reflect the comprehensive plan--underway.	Article XX	15-322(b).
	Legislative Decisions Planning Consistency	Required	<u>Chapter 160D Requirement</u> . When adopting an amendment to the zoning ordinance, must adopt a brief statement describing whether the action is consistent or inconsistent with approved plans. (G.S. 160D-605(a).) (This eliminates the 2017 requirement that statements take one of three particular forms.)	Amendment needed. Subsection 15-324(d) describes the required elements of the consistency statement for considering text/map amendments. As noted in the 160D bullet, this language was rewritten in 2017 with three specific options: 15-324(d)-(1) through 15-324(d)(3) including provisions a.-c. This section will need to be rewritten again to go back to the earlier version--a statement of consistency with adopted plans for text and map amendments, and an additional statement of reasonableness for map amendments.	Article XX	15-324(d)(1) thru 15-324(3)
	Legislative Decisions Planning Consistency	Required	<u>Chapter 160D Requirement</u> . Must adopt a statement of reasonableness for zoning map amendments; for such statements, may consider factors noted in the statutes; may adopt a statement of reasonableness for zoning text amendments. (G.S. 160D-605(b).)	Amendment needed. See note above regarding changes to Subsection 15-324(d). There may be interest in keeping the rational language for both types of amendments-map and text, although the requirement only applies to map.	Article XX	15-324(d)
	Legislative Decisions Planning Consistency	Optional	<u>Chapter 160D Option</u> . May consider and approve a statement of reasonableness and a plan consistency statement as a single, combined statement. (G.S. 160D-605(c).)	No change needed. The current practise is to include both elements in a single consistency statement.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	<u>Chapter 160D Option</u> . May adopt plan consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)	No change needed. The current practice is to adopt the consistency statement first, followed by the amendment.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	<u>Chapter 160D Option</u> . May meet the requirement for plan consistency even without formal adoption of a written statement if the minutes of the governing board meeting reflect that the board was fully aware of and considered the plan. (G.S. 160D-605(a).)	No change needed. This is a policy question, but the formal adoption of a statement of consistency provides clarity to the motion and decision.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	<u>Chapter 160D Option</u> . May adopt plan consistency statement when acting upon the zoning amendment or as a separate motion. (G.S. 160D-605(a).)	No change needed.	Article XX	15-324
	Legislative Decisions Planning Consistency	Optional	<u>Chapter 160D Option</u> . May concurrently consider a comprehensive plan amendment and a zoning amendment; must not require a separate application or fee for plan amendment. (G.S. 160D-605(a).)	Amendment needed. A separate statement for changes to the comprehensive plan, seems appropriate.	Article XX	15-324

	Legislative Decisions Planning Consistency	Required	<u>Chapter 160D Requirement.</u> Must note on the applicable future land use map when a zoning map amendment is approved that is not consistent with the map; the future land use map is deemed amended when an inconsistent rezoning is approved. (G.S. 160D-605(a).) (This clarifies that a rezoning inconsistent with a plan does not amend the text of the plan, but it does amend the future land use map.)	Amendment needed. Rewriting the existing provisions of 15-324(d) to include a new provision for this purpose.	Article XX	15-324
	Legislative Decisions Voting	Required	<u>Chapter 160D Requirement.</u> Must permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first reading, as was required for cities under prior law. (G.S. 160A-75; S.L. 2019-111, § 2.5(n).)	Subsection 15-324(c), under Council Action on Amendments, should be amended to remove the existing reference to 15-326 and the supermajority vote required with a protest petition, since the provisions for protect petitions were removed in 2016.	Article XX	15-324
	Legislative Decisions Certain Legislative Decisions	Required	<u>Chapter 160D Requirement.</u> Must prohibit third-party down-zonings; may process down-zonings initiated by the local government or landowner (G.S. 160D-601; S.L. 2019-111, Pt. I.)	Amendment needed. A new sentence has been added to the end of 15-321, Initiation of Amendments which clarifies that requests for downzoning can only be made by the property owner or the Town.	Article XX	15-323(d)
	Legislative Decisions Certain Legislative Decisions	Required	<u>Chapter 160D Requirement.</u> Must obtain applicant’s/landowner’s written consent to conditions related to a conditional zoning approval to ensure enforceability. (G.S. 160D-703(b); S.L. 2019-111, Pt. I	Existing provisions under conditional zoning districts, 15-141.4(e) speak to mutually approved conditions. New language needed to add requirement for written consent.	Article IX	15-141.4
	Legislative Decisions Certain Legislative Decisions	Required	<u>Chapter 160D Requirement.</u> May use purely legislative conditional zoning and/or quasi-judicial special use permitting; must not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)	Amendment needed. Existing conditional use districts will be automatically converted to conditional districts will the adoption of this amendment process. The existing provisions for conditional use zoning, 15-141.3 will be largely deleted. Certain conditional use districts that have special standards may need to be modified.	Article IX	14-141-3(e)
	Legislative Decisions Certain Legislative Decisions	Optional	<u>Chapter 160D Option.</u> With applicant’s written consent, may agree to conditional zoning conditions that go beyond the basic zoning authority to address additional fees, design requirements, and other development considerations. (G.S. 160D-703(b); S.L. 2019-111, Pt. I.)	The existing provisions under 15-141.4(e) limits conditions to (i) those that address the conformance of the development and use of the site to the provisions of this chapter or to applicable plans adopted by the Board, and (ii) those that address the impacts reasonably expected to be generated by the development or use of the site.	Article IX	14-141-3(e)
	Legislative Decisions Certain Legislative Decisions & Substance of Zoning Ordinance & Certain Quasi-Judicial Decisions	Optional	<u>Chapter 160D Option.</u> May allow administrative minor modification of conditional zoning, special use permits, and other development approvals; if allowed, must define “minor modification: by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)	Amendment needed. New language outlining clear standards/parameters for minor modifications would be beneficial.	Article IX	141.3

	Substance of other Development Ordinances Historic Preservation	Required	<u>Chapter 160D Requirement.</u> Must follow standard quasi-judicial procedures when considering preservation certificates of appropriateness. (G.S. 160D-947(c).	Existing language in the LUO under 15-339(d) directs the Historic District Commission (Appearance Commission) when considering a certificate of appropriateness (COA) to follow the provisions for the Board of Adjustment considering a SUP (meaning a quasi-judicial process). New language under this subsection and under subsection 15-336 has been added, incorporating the terms quasi-judicial for clarity.	Article XXI	15-336; 15-339(d)
	Substance of other Development Ordinances Historic Preservation	Required	<u>Chapter 160D Requirement.</u> Must frame preservation district provisions as “standards” rather than “guidelines.” (G.S. 160D-947(c).	References to "guidelines" in Subsection 15-338 changed to "standards."	Article XXI	15-338(b) in two places; 15-338(c); 15-338(d); 15-338(f)
	Substance of other Development Ordinances Historic Preservation	Optional	<u>160D Option.</u> May choose for appeals of preservation commission decisions to go to board of adjustment. Default rule is that preservation appeals go directly to superior court rather than to board of adjustment. (G.S. 160D-947(e).)	No change needed. The existing language in the LUO under 15-339(g) provides for COA appeals to go to the Board of Adjustment.	Article XXI	15-339(g)
	Judicial Review Appeals of Quasi-Judicial Decisions	Required	<u>Chapter 160D Requirement.</u> Must update ordinance to address appeals of certificates of appropriateness for historic landmarks and historic districts; default rule is that such appeals go straight to court; local government may opt for such appeals to go to the board of adjustment, as under prior statutes. (G.S. 160D-947.)	No change needed. The existing language in the LUO under 15-339(g) provides for COA appeals to go to the Board of Adjustment.	Article XX Article V	15-339(g) 15-91(d)
	Judicial Review Appeals of Quasi-Judicial Decisions	Required	<u>Chapter 160D Requirement.</u> Must provide that appeals of certificates of appropriateness must be filed within thirty days after the decision is effective or written notice is provided, the same as for appeals of other quasi-judicial decisions. (G.S. 160D-947; -1405.)	No change needed. The existing language in the LUO under 15-339(g) outlines the procdure for COA appeals to go to the Board of Adjustment following the standard process for appeals in 15-91 (Article V) Subsection 15-91(d) speaks to the 30-day window.	Article XXI Article V	15-339(g) 15-91(d)
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article IV	
			Town administrative update.	Changes for gender neutral language.	Article IV	
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article V	
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article VI	
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XIII	
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XIV	
			Town administrative update.	Amend subsection 15-216(d1) and 15-216.1(a) to change the reference to a CUP to a class A SUP. In addition, delete the reference to a B-4-CU district in 15-216(d1).	Article XIV	15-216(d1) 151-216.1(a)
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XVI	
			Town administrative update.	Amendments needed to change CUP and SUP to class A SUP and class B SUP.	Article XVI	15-251.10(b)(2) 15-251.11(a); (b) 15-264(a)
			Town administrative update.	Amendments needed for gender neutral language.	Article XVI	15-251.6
			Town administrative update.	Amend LUO sections 15-271, 15-273 to change CUP and SUP to class A SUP and class B SUP	Article XVII	15-15-271(b) in two places; 15-273

			Town administrative update.	Amend LUO Subsection 15-271(d) to update the provisons associated with a master sign permits approved as part of a CUP to class A SUP and a new provision to clarify that existing CUPs will automatically be converted to SUPs.	Article XVII	15-271(d); 15-271(d)(1) in three places;
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XVII	15-271(d); 15-271(d)(1); 15-271(d)(2) in two places; 15-271(d)(3); 15-272(4)
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XVIII	
			Town administrative update.	Amendments needed to change CUP and SUP to class A SUP and class B SUP.	Article XVIII	15-291(f) 15-296(h)
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XIX	
			Town administrative update.	Amend LUO sections 15-311, 15-319 and 15-321.1 to change CUP and SUP to class A SUP and class B SUP	Article XIX	15-311 15-319 15-321.1(c)
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XX	
			Town administrative update.	List other administrative changes for Article XX		
			Town administrative update.	Change references for the Board of Aldermen to the Town Council.	Article XXI	

ARTICLE I

GENERAL PROVISIONS

Section 15-1 Short Title.

This chapter shall be known and may be cited as the **CARRBORO LAND USE ORDINANCE**.

Section 15-2 Authority.

This chapter is adopted pursuant to the authority contained in Article 2 of N.C.G.S. Chapter 160D~~Article 19 of G.S. Chapter 160A~~; Article 21 (Part 6) of G.S. Chapter 143; G.S. 143-215.6A; G.S. 143-214.5; Article 4 of G.S. Chapter 113A; as well as Chapter 527 of the Session Laws of 1953; Chapters 122 and 136 of the Session Laws of 1963; Chapter 260 of the Session Laws of 1977; Chapter 753 of the Session Laws of 1979; Chapters 233 and 476 of the 1987 Session Laws; Chapters 216 and 484 of the 2009 Session Laws; and other state and local laws. **(AMENDED 4/27/82; (REWRITTEN 6/26/12).**

Section 15-3 Jurisdiction.

(a) This chapter shall be effective throughout the town's planning jurisdiction. The town's planning jurisdiction comprises the area described by Chapters 122 and 636 of the Session Laws of 1963, as modified from time to time in accordance with Section 160D-200; 202; 903+60A-360 of the North Carolina General Statutes.

(b) If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may, by mutual agreement and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction for the entire parcel to any one of those local governments in accordance with the process described in G.S. 160D-203.

(c**b**) In addition to other locations required by laws, a copy of a map showing the boundaries of the town's planning jurisdiction shall be available for public inspection in the planning department. Maps may be maintained either in paper or digital format and shall be available for public inspection in the Planning Department.

Section 15-4 Effective Date.

The provisions in this chapter were originally adopted and became effective on November 25, 1980. **(AMENDED 4/27/87).**

Section 15-5 Relationship to Existing Zoning, Subdivision and Flood Control Ordinances.

To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the town's zoning, subdivision, or flood control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise

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specifically provided. In particular, a situation that did not constitute a lawful, non-conforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this chapter merely by the repeal of the zoning ordinance.

Section 15-6 Relationship to ~~Comprehensive Plan~~, Land Use Plan and other Adopted Plans.

(a) Pursuant to the intent and requirements of G.S. 160D-501, the Town shall adopt a Comprehensive Plan setting forth the goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town. The Comprehensive Plan may, among other topics, address any of the following: land use, economic sustainability, affordable housing, recreation, parks and open space, transportation, water and wastewater, energy and utilities, environmental systems and resilience, stormwater management, and public services.

- (1) The adoption and amendment of the comprehensive plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601 and Article XX of this chapter.
- (2) The comprehensive plan shall periodically be reviewed and maintained to ensure the relevance of the policies to current and projected conditions.

(b) It is the intention of the Town Council~~Board~~ that this chapter implement the planning policies adopted by the Council~~Board~~ for the town and its extraterritorial planning area, as reflected in the Comprehensive Plan, Land Use Plan and other planning documents. While the Council~~Board~~ reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Council~~Board~~ hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

- (1) If an amendment to the Official Zoning Map is adopted and the action is deemed inconsistent with the adopted Comprehensive Plan, the Official Zoning Map amendment shall have the effect of also amending the Future Land Use Map of the Comprehensive Plan.
- (2) In such case, no additional application or fee for an amendment to the Comprehensive Plan shall be required of the applicant.

Section 15-7 No Use of Land or Buildings Except in Conformity With Chapter Provisions

(a) Subject to Article VIII of this chapter (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this chapter.

(b) For purposes of this section, the "use" or "occupation" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 15-8 Fees.

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, ~~conditional use permits~~, special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town's miscellaneous fees and charges schedule.

(b) Except as otherwise provided in this chapter or the miscellaneous fees and charges schedule, fees established in accordance with subsection (a) shall be paid upon submission of a signed application or notice of appeal. **(AMENDED 05/26/98)**

(c) Notwithstanding the provisions of Section 15-66 (Applications to be Processed Expeditiously) the planning staff may delay action on any request for a certificate of occupancy or final subdivision approval until all fees (including without limitation, engineering review fees) arising out of the permit review process for that particular development have been paid. **(AMENDED 05/26/98).**

Section 15-9 Stricter Regulation Controls. (AMENDED 6/26/12)

The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

Section 15-10 through 15-14 Reserved.

ARTICLE II

BASIC DEFINITIONS AND INTERPRETATIONS

Section 15-15 Definitions of Basic Terms. (AMENDED 6/22/04; 5/24/05; 6/26/07; 6/24/08; 3/24/09; 6/22/10; 6/23/20)

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

ACCESSORY USE. (See Section 15-150). (AMENDED 1/22/85)

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this chapter, also referred to as administrative determinations.

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

ADMINISTRATOR. (See Section 15-37).

ADULT CARE HOME, CLASS A. All group homes for adults other than Class B group homes, maternity homes, or nursing care homes. This definition specifically includes but is not limited to group homes for adults who are in need of such a residential arrangement because they are aged or infirm, or have a “handicap” as defined in the Fair Housing Act (42 U.S.C. § 3602), or are “handicapped” as that term is defined in N.C.G.S. § 168-21. (AMENDED 6/22/05)

ADULT CARE HOME, CLASS B. A group home for adults that serves primarily the needs of those who (i) are “dangerous to others” as those terms are defined in N.C.G.S. 122C-3(11) and (21), or (ii) are currently using or are addicted to controlled substances; or (iii) who have been assigned to a group home as a condition of probation, parole, or intermediate punishment; as defined in G.S. 15 A-1340.11(6). (AMENDED 6/22/04; 4/19/05)

ANTENNA. Equipment designed to transmit or receive electronic signals or energy over the air. (AMENDED 02/18/97)

ANTENNA ELEMENT REPLACEMENT. The replacement of any part or all of an antenna or antenna array with a model of the same manufacturer and model type or close specification. (AMENDED 6/23/20)

APPLICABLE CODES. The N.C. State Building Code uniform fire, building, electrical, plumbing or mechanical codes adopted by a recognized national code organization together with State, Orange County or Town of Carrboro amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons. (AMENDED 6/23/20)

Art II. BASIC DEFINITIONS AND INTERPRETATIONS

AUTOMATIC TELLER MACHINE, FREESTANDING. A machine or device through which a customer can conduct certain banking transactions and which is not located on the same lot as the bank or financial institution with which such machine is associated. The purpose of this definition is to distinguish between teller machines operated as accessory uses to banks located in principal buildings where customers can choose to do their banking either inside the building or at the teller machine, and teller machines that are totally separate from bank buildings and therefore generate additional traffic. (AMENDED 09/01/92)

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

BASE STATION. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics. (AMENDED 6/23/20)

BED AND BREAKFAST. A use that (i) takes place within a building that, before January 1, 1999, was designed and used as a single-family detached dwelling unit, (ii) consists of a single dwelling unit together with the rental of one (1) or more bedrooms on a daily or weekly basis to tourists, vacationers, or similar transients, (iii) where the provision of meals, if provided at all, is limited to registered guests, and (iv) where the bed and breakfast operation is conducted primarily by persons who reside within the dwelling unit, with the assistance of not more than an equivalent of two (2) full-time employees. (AMENDED 06/22/99)

BEDROOM. A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom. (AMENDED 10/07/97)

BERM. A ~~human~~man-made mound of earth whose length exceeds its height by a factor or at least five and whose side slopes are constructed at a steepness ratio of 6:1 or steeper. (The side slope of a berm shall not be constructed steeper than 2:1) (AMENDED 05/19/98)

BOARDING HOUSE. A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.

BONA FIDE FARM. Agricultural activities as set forth in G.S. 160D-903.

BUILDING. A structure designed to be used as a place of occupancy, storage or shelter.

BUILDING, ACCESSORY. A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

BUILDING, PRINCIPAL. The primary building on a lot or a building that houses a principal use.

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CABLE TELEVISION SATELLITE STATION. A site containing one or more satellite dishes and related equipment, operated by a cable television company and used for the reception of electronic signals from satellites. (AMENDED 02/18/97)

CABLE TELEVISION SIGNAL DISTRIBUTION CENTER. A fully enclosed building not exceeding 2500 square feet that houses equipment used in connection with the distribution of cable television signals, with no external antennas, towers, satellite dishes, or similar facilities located on site. (AMENDED 02/18/97)

CHARTER. As defined in G.S. 160A-1(2).

CERTIFY. Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the town, the town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the town may accept certification by telephone from some agency when the circumstances warrant it, or the town may require that the certification be in the form of a letter or other document.

CHILD CARE HOME, CLASS A. All group homes for minor children other than Class B group homes. This definition specifically includes but is not limited to group homes for minor children who are in need of such a residential arrangement because they are orphaned, abused, neglected, or dependent, or who have a “handicap” as defined in the Fair Housing Act (42 U.S.C. § 3602), or are “handicapped” as that term is defined in N.C.G.S. § 168-21. (AMENDED 6/22/04)

CHILD CARE HOME, CLASS B. A group home for minor children that serves primarily the needs of those who (i) are “dangerous to others” as those terms are defined in N.C.G.S. § 122C-3(11) and (21), or (ii) are currently using or are addicted to controlled substances; or (iii) who have been assigned to a group home as a condition of probation, parole, or “intermediate punishment: as defined in G.S. 15A-1340.11(6). (AMENDED 6/22/04; 4/19/05)

CHILD CARE INSTITUTION. An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

CHILD DAY CARE FACILITY. A program or arrangement where more than eight children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than two hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. (AMENDED 6/26/07)

CHILD DAY CARE HOME. A program or arrangement where three to eight children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than two hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. (AMENDED 6/26/07)

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CIRCULATION AREA. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

COLLOCATION. The placement, installation, maintenance, modification, operation or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities. **(AMENDED 6/23/20)**

COMBINATION USE. A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permissible Uses, Section 15-146. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See Section 15.150. In addition, when two or more separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

COMMUNICATIONS FACILITY. The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service. **(AMENDED 6/23/20)**

COMMUNICATIONS SERVICE. Cable service as defined in 47 U.S.C. § 522(6) (The one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service), and information service as defined in 47 U.S.C. § 153(24). (The term “information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service), and telecommunications service as defined in 47 U.S.C. § 153(53) (The term “telecommunications service” means the offering of telecommunications for a fee directly to the public.) **(AMENDED 6/23/20)**

COMMUNICATIONS SERVICE PROVIDER. A cable operator as defined in “Communications Service” and 47 U.S.C. § 522(5); a provider of information service, as defined in “Communications Service” and 47 U.S.C. § 153(24); a telecommunications carrier, as defined in “Communications Service” and in 47 U.S.C. § 153(51); or a wireless provider. **(AMENDED 6/23/20)**

COMMUNITY CENTER. A publicly-sponsored, non-profit indoor facility providing for one or several of various types of recreational uses. Facilities in a Community Center may include, but are not limited to gymnasias, swimming pools, indoor court areas, meeting/activity rooms, and other similar uses. For the purposes of this section, the term publicly-sponsored means that a significant Town investment is involved in some fashion in the facility's development or operations. **(AMENDED 02/02/88)**

COMPREHENSIVE PLAN. A comprehensive plan that has been officially adopted by the Town Council pursuant to G.S. 1660D-501 [See Article I].

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CONDITIONAL USE PERMIT. A permit ~~that was~~ issued by the ~~Town Council Board of Aldermen~~, prior to January 1, 2021, ~~authorizing that authorizes~~ the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the ~~Town Council Board of Aldermen~~. Pursuant to N.C.G.S. Chapter 160D, all valid conditional use permits were automatically converted to a class A special use permits on January 1, 2021. See also special use permit.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CRITICAL AREA. The critical area of the University Lake Watershed is defined as all area of the watershed within the planning jurisdiction of the Town of Carrboro. **(AMENDED 07/06/93)**

DATA SERVICE PROVIDER FACILITY. An automated facility other than a utility facility or wireless telecommunication facility, including but not limited to a structure and ancillary improvement used primarily for the purpose of transmitting and receiving data. Typically, such facilities resemble wireless telecommunications base stations and house equipment used to transmit and receive data via cable, fiber optic strands, or similar media. **(REPEALED 02/04/97; AMENDED 06/23/15)**

DESIGNATED BUFFER. An area of land adjacent to lakes or watercourses within the University Lake Watershed that pursuant to Section 15-265 remains undisturbed in order to reduce the sedimentation and pollution of such lakes or watercourses. **(AMENDED 12/7/83; 12/06/88).**

DETERMINATION. A written, final, and binding order, requirement, or determination regarding an administrative decision.

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property. A person who is responsible for any undertaking that requires a zoning permit, special use permit, conditional use permit, or sign permit.

DEVELOPMENT. Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

~~That which is to be done pursuant to a zoning permit, special use permit, conditional use permit, or sign permit.~~

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to this chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not

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limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT REGULATION. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to N.C.G.S. Chapter 160D, this chapter or the Town Code or Town charter.

DIMENSIONAL NONCONFORMITY. A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

DRAINAGE FACILITIES. Any temporary or permanent natural or ~~human~~made facility utilized to divert, convey, or store stormwater runoff. Such facilities shall include (but are not limited to): drainage pipes and culverts, swales and ditches, intermittent and permanent streams, catch basins, drainage junction boxes and manholes, yard inlets, retention and detention basins and ponds, curbing which will carry runoff, dams and weirs, and culvert outlet stabilization and protection devices. (AMENDED 04/03/90)

DRIVEWAY. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

DUPLEX. (See Residence, Duplex)

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. This term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

DWELLING UNIT. An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

ELECTRONIC GAMING OPERATION. (See Section 15-180). Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet

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sweepstakes, electronic gaming machines/operations, or cybercafés. This does not include any lottery approved by the State of North Carolina. **(AMENDED 6/22/10).**

ELIGIBLE FACILITIES REQUEST. A request for a modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification. **(AMENDED 6/23/20)**

EQUIPMENT COMPOUND. An area containing accessory equipment surrounding or near the base of a wireless support structure within which a wireless facility is located. **(AMENDED 6/23/20)**

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this chapter. [See Article VI.]

EXPENDITURE. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding, contractual commitments to make future expenditures, as well as any other substantial changes in position.

EXTRATERRITORIAL PLANNING AREA. That portion of the town's planning jurisdiction that lies outside the town's corporate boundaries. **(AMENDED 4/27/82).**

FAMILY. One or more persons living together as a single housekeeping unit.

FLAG LOT. An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm of the lot that is less than fifty percent of the presumptive minimum required lot width as set forth in Section 15-183 [or if no minimum lot width is specified therein, is less than the lesser of (i) fifty percent of the width of the buildable portion of the lot, or (ii) fifty feet]. **(AMENDED 11/21/95)**

FLEX SPACE. A building providing use flexibility for office and light industrial uses, such as printing, design, light assembly of products, artist space, or storage/warehousing. A flex space could also host a co-working center, where many individual small business owners or freelancers work alongside one another in common space, or a business incubator, where individuals working to launch new businesses can rent affordable space in which to perform office work and access shared resources such as printers, scanners, and other tools and services such as financial counseling and management training. **(AMENDED 6/18/2019)**

FLOODPLAIN. Any land area susceptible to being inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (one hundred year flood) on the “Flood Boundary and Floodway Map” prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this chapter, the term refers to that area designated as a

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floodway on the “Flood Boundary and Floodway Map” prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.

FLOOR. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in a frame construction. See the definition of “Floor” in Subsection 15-251 (5) for all matters pertaining to floodplain and floodway regulations. **(AMENDED 4/21/87; 4/8/03)**

GROUP HOME. A housing arrangement in which up to nine individuals, typically unrelated, live together as a single housekeeping unit in a single dwelling unit, under circumstances where such residents are under the care, control, and supervision of one or more other persons who are trained to provide such care, control, and supervision. **(AMENDED 6/22/04; 4/19/05)**

GROSS FLOOR AREA. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

HANDICAPPED, AGED OR INFIRM INSTITUTION. A facility that provides residential care for more than nine aged, disabled or handicapped persons whose principal need is a home with the sheltered or personal care their age or disability requires. Medical care at such a facility is only occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. The residents of such a facility do not occupy separate dwelling units, and this distinguishes such a facility from a multi-family development occupied by the elderly, handicapped or disabled. **(AMENDED 5/10/83) (REPEALED 6/22/05)**

HAZARDOUS SUBSTANCE. Any substance which may pose a danger to the public health or safety if contained in the public water supply. This includes all substances defined as hazardous chemicals by the community right to know reporting requirements under Sections 311 and 312 of the Superfund Amendments and Reauthorization Act of 1986, and by the North Carolina Hazardous Chemicals Right to Know Act (G.S. 95-173 to 95-218). **(AMENDED 12/7/83; 06/21/88)**

HIGH VOLUME TRAFFIC GENERATION. All uses in the 2.000 classification other than low volume traffic generation uses.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to proposed walls of the structure. **(AMENDED 4/21/87)**

HOME OCCUPATION. A commercial activity that: (i) is conducted by a person on the same lot where such person resides, and (ii) is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use (see Section 15-150), but that can be conducted without any significantly adverse impact on the surrounding neighborhood. **(AMENDED 04/11/89)**

Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if: (i) goods, stock in trade, or other commodities are displayed, (ii) any on- premises retail sales occur, (iii) more than one person not a

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resident on the premises is employed in connection with the purported home occupation, (iv) it creates objectionable noise, fumes, odor, dust or electrical interference, or (v) more than twenty-five percent of the total gross floor area of the residential buildings plus other buildings housing the purported home occupation, or more than 500 square feet of gross floor area (whichever is less), is used for home occupation purposes.

The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria: (i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, teacher, or similar professional, (ii) workshops, greenhouses, or kilns, (iii) dressmaking or hairdressing studios.

HOME OCCUPATION, MAJOR. A Major Home Occupation is an accessory business use of a residentially-zoned property, that meets one or more of the following criteria: (i) employs up to four non-resident employees, who may work on site; (ii) utilizes outdoor storage of materials, supplies, products, or machinery; or (iii) generates noise, vibration, dust, odor, light, or glare that is visible from neighboring properties or the public right-of-way at any hour of the day. Examples of Major Home Occupations include: lawncare or landscaping services, woodworking shops, small engine repair, appliance repair, metalworking, and any home business with more than one non-resident employee. Major home occupation uses are only permissible with a zoning permit in the HR-R district, and are subject to the performance standards specified in Section 15-176.9. **(AMENDED 6/18/2019)**

INDEPENDENT AUTOMOBILE LOTS OR GARAGES. An area or garage (i) that is used for the temporary parking (not storage) of motor vehicles, (ii) that is located on a lot on which there is no other principal use to which the parking is related, and (iii) where the parking spaces are used by more than one enterprise or by the general public or where the lot is leased by one enterprise for a total period (including automatic renewals or renewal options) of not more than four years. **(AMENDED 3/11/86)**

INTERESTED PERSON. For purposes of quasi-judicial evidentiary hearings an interested person or party is one who has standing as defined in G.S. 160D-1402(c). [See Article VI].

INTERMEDIATE CARE INSTITUTION. An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

INTERMITTENT STREAM. A stream or portion of a stream that flows only in direct response to precipitation. It receives little or no water from springs and only temporary supply from melting snows or other sources. It is dry for a large part of the year. **(AMENDED 12/7/83)**

JOINT PLANNING TRANSITION AREA. That portion of the town's planning jurisdiction which lies generally to the north of the town's corporate boundaries and extraterritorial planning area, and which is defined by the Joint Planning Agreement between Carrboro, Chapel Hill, and Orange County, and described on the Orange County Joint Planning Area Land Use Map. This area is further defined as being in transition from rural to urban or already urban in density. The Transition Area is divided

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into Transition Area I and Transition Area II on the Joint Planning Area Land Use Map. Under the terms of the Joint Planning Agreement, no tract in Transition Area II may, after the effective date of the Agreement, be approved for development at a density that exceeds one housing unit per gross acre until at least 75% of the gross land area of Transition Area I consists of any combination of:

- (a) Lots containing one acre or less;
- (b) Residential developments approved for development at a density of at least one unit per acre;
- (c) Streets, roads, and utility easements located outside of lots containing one acre or less;
- (d) Lots or tracts that are used for commercial, industrial, institutional, or governmental purposes;
- (e) Tracts that are owned by the University of North Carolina or other non-profit entities and that are not available for development. **(AMENDED 11/14/88)**

KENNEL. A commercial operation that: (i) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale.

LAKE OR WATERCOURSE. Any stream, river, brook, swamp, creek, run, branch, waterway, reservoir, lake, or pond, natural or impounded, in which sediment may be moved or carried in suspension and which could be damaged by accumulation of sediment and pollutants. **(AMENDED 12/7/83)**

LANDOWNER OR OWNER. The holder of the title in fee simple. Absent evidence to the contrary, the Town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as the agent or representative for the purpose of making applications for development approvals.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under N.C.G.S. Chapter 160D, and Article XX of this chapter. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of N.C.G.S. Chapter 160D.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision. [See Article XX.]

LOADING AND UNLOADING AREA. That portion of the vehicle accommodation area used to satisfy the requirements of Section 15.300.

LOT. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to or a lesser interest in a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or a private road is created across a parcel of land otherwise characterized as a lot by this definition, and the interest thus obtained or the road so created

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is such as effectively to prevent use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot.

Subject to Section 15-123, the permit-issuing authority and the owner of two or more contiguous lots may agree to regard the lots as one lot if necessary or convenient to comply with any of the requirements of this ordinance.

LOT AREA. The total area circumscribed by the boundaries of a lot, except that: (i) when the legal instrument creating a lot shows the boundary of the lot extending to the center of a public street right-of-way or into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or a line running parallel to and thirty feet from the center of the traveled portion of the street if the right-of-way line cannot be determined, and (ii) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

LOW VOLUME TRAFFIC GENERATION. Uses such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor area than stores selling smaller items.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfurnished or flood resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance. **(AMENDED 4/21/87)**

MANUFACTURED HOME. A structure as defined in G.S. 143-145(7). [See also Mobile Home.]

MATERNITY HOME. A group home licensed as a maternity home by the N.C. Department of Health and Human Services pursuant to N.C.G.S. § 131D-10.10. **(AMENDED 6/22/04)**

MICRO WIRELESS FACILITY. (See Section 15-176). A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches. **(AMENDED 6/23/20)**

MOBILE HOME. **(REPEALED 4/24/84)**

MOBILE HOME. Any structure that: (i) consists of a single unit completely assembled at the factory, or of two (double-wide) or three (triple-wide) principal components totally assembled at the factory and joined together at the site; (ii) is designed so that the total structure (or in the case of double-wides or triple-wides, each component thereof) can be transported on its own chassis; (iii) is over 40 feet in length and over 8 feet in width; (iv) is designed to be used as a dwelling and provides complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation; (v) is actually being used or held ready for use as a dwelling; (vi) is

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not constructed in accordance with the standards set forth in the North Carolina State Building Code. **(AMENDED 4/24/84)**

MOBILE HOME, CLASS A. A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

- (a) The pitch of the mobile home's roof has a minimum vertical rise of two feet for each twelve feet of vertical run.
- (b) The exterior materials are of wood, hardboard, or aluminum comparable in composition, appearance, and durability to site-built houses in the vicinity.
- (c) A continuous, permanent masonry foundation, unpierced except for required ventilation and access, is installed under the mobile home; and
- (d) The tongue, axles, transporting lights, and removable towing apparatus are to be removed subsequent to final placement. **(AMENDED 10/1/85).**

MOBILE HOME, CLASS B. A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction. **(AMENDED 10/1/85, 10/20/87)**

MOBILE HOME, CLASS C. All mobile homes other than Class A or Class B mobile homes. **(AMENDED 10/20/87)**

MOBILE PREPARED FOOD VENDOR. A business in which food that is prepared and ready for consumption at the point of sale is sold from or out of a motor vehicle (as defined in Section 6-1 of the Town Code) that does not exceed eight feet in width or twenty-five feet in length and that is removed each day at the close of the food vendor business from the lot where the food is sold. In no case may a mobile prepared food vendor business operate between the hours of 2:30 a.m. and 6:00 a.m. **(AMENDED 6/24/08)**

MODULAR HOME. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the N.C. State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

MULTI-PHASE DEVELOPMENT. A development containing 25 acres or more that is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

NONCONFORMING LOT. A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.

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NONCONFORMING PROJECT. Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

NONCONFORMING SITUATION. A situation that occurs when, on the effective date of this chapter, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and set-back requirements) is not in conformity with this chapter, because signs do not meet the requirements of this chapter (Article XVII), or because land or buildings are used for purposes made unlawful by this chapter.

NONCONFORMING USE. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

NURSING CARE HOME. A group home licensed as a nursing home under the Nursing Home Licensure Act, N.C.G.S. § 131E-100 et. seq. **(AMENDED 6/22/04)**

NURSING CARE INSTITUTION. An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

OUTSIDE DISPLAY OF GOODS FOR SALE OR RENT. Display outside of a fully enclosed building of the particular goods or pieces of merchandise or equipment that are themselves for sale. Outside display is to be distinguished from outside storage of goods that are not prepared and displayed for immediate sale or rent. **(AMENDED 2/4/86)**

OVERNIGHT SHELTER FOR HOMELESS. A shelter operated by a non-profit agency for not more than fifteen persons (in addition to not more than two resident managers) who are referred to such shelter by an established agency within the community such as OPM Mental Health, the Carrboro or Chapel Hill Police Departments, the Orange County Department of Social Services, the Interfaith Council, the Salvation Army, etc. **(AMENDED 10/22/85)**

PARKING AREA AISLES. A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

PARKING SPACE. A portion of the vehicle accommodation area set aside for the parking of one vehicle.

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PERFORMING ARTS SPACE. A commercial enterprise occurring within an existing building or buildings aged fifty years or older and adapted for reuse in which performance art/performance art programming is the primary and principal driver of its business activities as demonstrated by factors specified in Section 15-147(r). This use is distinguished from bar and nightclub uses in that performances are often geared toward standing audiences and the ratio of audience to stage space is approximately four to one. (AMENDED 11/27/18)

PLANNED INDUSTRIAL DEVELOPMENT. A development that (i) is constructed on a tract of at least twenty contiguous acres under single ownership located within a planned industrial district, (ii) is developed in accordance with a comprehensive and unified scheme of development covering the entire tract, (iii) consists of a single principal use or a combination of principal uses as described in the 2.130 wholesale sales, 4.100 manufacturing, 13.100 police station, or 13.200 fire station classifications, and (iv) is otherwise developed according to building height, setback and other regulations applicable to the M-1 zoning district, except that the performance standards (Article XI, Part I) applicable to 4.100 uses in business zones shall govern uses in a planned industrial development. (AMENDED 6/22/82)

PLANNED UNIT DEVELOPMENT. A development constructed on a tract of land at least twenty-five (25) acres under single ownership, planned and developed as an integral unit, and consisting of a combination of principal uses that could not be combined in any district other than a planned unit development district. (AMENDED 6/22/82)

PLANNING AND DEVELOPMENT REGULATION JURISDICTION. The area within the town limits as well as the area beyond the town limits within which the town is authorized to plan for and regulate development pursuant to the authority granted in Article 2 of Chapter 160D~~Article 19 of Chapter 160A~~ of the N.C. General Statutes and Chapter 122 of the Session Laws of 1963. (AMENDED 6/22/82)

PROTECTIVE BUFFERS. An area of land along both sides of watercourses outside of the University Lake Watershed with drainage areas smaller than one square mile that pursuant to Section 15-268 remains undisturbed and naturally vegetated in order to minimize the likelihood of nuisance flooding, promote the infiltration of stormwater into the ground, and help maintain local streams' capacity for carrying off storm water. (AMENDED 12/06/88)

PUBLIC UTILITY SERVICE COMPLEX. A development consisting of a combination of offices and one more of the following types of uses, all of which are operated or conducted by a "public utility" as that term is defined in Section 62.3 of the N.C. General Statutes: motor vehicle repair (use classification 9.400), parking or storage (use classification 10.300), and towers and wireless support structures (use classification 18.000). (AMENDED 10/25/83; AMENDED 06/23/2020)

PUBLIC WATER SUPPLY SYSTEM. Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof. (See G.S. 130-31)

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving

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variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board, Town Council or board of adjustment, to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

RECEIVE ONLY EARTH STATION. (DELETED 02/18/97)

RESIDENCE, DUPLEX. (REPEALED 4/24/84)

RESIDENCE, MULTI-FAMILY. (REPEALED 4/24/84)

RESIDENCE, SINGLE-FAMILY. (REPEALED 4/24/84)

RESIDENCE, DUPLEX. A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance. **(AMENDED 4/24/84)**

RESIDENCE, MULTI-FAMILY. A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch). **(AMENDED 4/24/84)**

RESIDENCE, MULTI-FAMILY APARTMENTS. A multi-family residential use other than a multi-family conversion or multi-family townhome. **(AMENDED 4/24/84)**

RESIDENCE, MULTI-FAMILY CONVERSION. A multi-family residence containing not more than four dwelling units that results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence. **(AMENDED 4/24/84)**

RESIDENCE, MULTI-FAMILY TOWNHOMES. A multi-family residential use in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance. **(AMENDED 4/24/84)**

RESIDENCE, PRIMARY WITH ACCESSORY APARTMENT. A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than twenty-five percent of the gross floor area of the building nor more than a total of 750 square feet.

PRIMARY WITH ACCESSORY DETACHED DWELLING. A residential use in which there is located on the same lot a primary, single family residence and a second dwelling that is detached from the

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primary residence but that may be attached to another accessory building such as a garage, and which second dwelling unit comprises not more than fifty percent of the gross floor area of the primary residence nor more than a total of 750 square feet, exclusive of garage. **(AMENDED 05/28/02)**

RESIDENCE, SINGLE-FAMILY DETACHED, MORE THAN ONE DWELLING PER LOT. A residential use consisting of two or more single-family detached dwelling units on a single lot.

RESIDENCE, SINGLE-FAMILY DETACHED, ONE DWELLING UNIT PER LOT. A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.

RESIDENCE, SINGLE-ROOM OCCUPANCY. A multi-family, residential use in which each dwelling unit includes no more than 450 square feet. **(AMENDED 01/11/00)**

RESIDENCE, TWO-FAMILY. A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

RESIDENCE, TWO-FAMILY APARTMENT. A two-family residential use other than a duplex, two-family conversion, or primary residence with accessory apartment.

RESIDENCE, TWO-FAMILY CONVERSION. A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

RESIDENCE, TRIPLEX. A three-family residential use in which the dwelling units share common vertical walls or horizontal floors/ceilings (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has a living space on the ground floor and a separate, ground floor entrance. **(AMENDED 6/18/2019)**

ROAD. All private ways used to provide motor vehicle access to (i) two or more lots or (ii) two or more distinct areas or buildings in unsubdivided developments.

ROOMING HOUSE. (See Boarding House)

SATELLITE DISH. A dish-shaped antenna designed for the reception of electronic signals from satellites. **(AMENDED 02/18/97)**

SENIOR CITIZEN RESIDENTIAL COMPLEX. A residential development consisting of a combination of (i) two-family or multi-family dwelling units, at least 90% of which are one-bedroom units designed for and limited to occupancy by senior citizens, and (ii) an “intermediate care institution” for senior citizens (use classification 7.200) containing a number of bedrooms that does not exceed the number of dwelling units in the complex and that is designed to house a number of senior citizens that does not exceed twice the maximum permissible number of bedrooms in this intermediate care facility. For purposes of this subsection, the term “senior citizen” means a person

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who is sixty-two (62) years of age or older or a household composed of one or more persons at least one of whom is 62 years of age or older. **(AMENDED 11/28/95)**

SENIOR CITIZENS' DAY CARE FACILITY, CLASS A. Any day care arrangement or center which provides day care for more than three but not more than sixteen senior citizens at any one time, on a regular basis of at least once per week for more than two hours but less than 24 hours per day. Operation of a class A day care facility for senior citizens is considered use 22.300 Senior Citizens Day Care in the Table of Permissible Uses. **(AMENDED 02/04/97; 6/26/07)**

SENIOR CITIZENS' DAY CARE FACILITY, CLASS B. Any day care arrangement or center which provides day care for more than sixteen senior citizens at any one time, on a regular basis of at least once per week for more than two hours but less than 24 hours per day. Operation of a class B day care facility for senior citizens is considered use 22.400 Senior Citizens Day Care in the Table of Permissible Uses. **(AMENDED 02/04/97; 6/26/07)**

SIGN, FREESTANDING. A sign that (i) is not directly attached to, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but (ii) is instead attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign", is also a freestanding sign.

SIGN, NONCONFORMING. A sign that, on the effective date of this chapter does not conform to one or more of the regulations set forth in this chapter, particularly Article XVII, Signs.

SIGN, OFF-PREMISES. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN PERMIT. A permit issued by the land use administrator that authorizes the recipient to erect, move, enlarge, or substantially alter a sign.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

SITE SPECIFIC VESTING PLAN. A plan approved by the Town Council that describes, with reasonable certainty, using a combination of graphic illustrations and written notes, the type and intensity of use for a specific parcel or parcels of property located within the Town's planning jurisdiction. Conditional districts, special use permits and zoning permits can be approved as site specific vesting plans by the Town Council following a legislative decision process in accordance with G.S. 160D-108. [See Article VIII.]

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SMALL WIRELESS FACILITY. (See Section 15-176). A wireless facility that meets both of the following qualifications: **(AMENDED 6/23/20)**

- (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. (For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.)

SOCIAL SERVICES PROVIDER WITH DINING SERVICES. A facility that provides to the public, at little or no charge, various social services, which may include educational programs, counseling services, food pantry facilities, and other supportive services, and which includes dining wherein free meals are provided on-site on a regular basis to substantial numbers of individuals. This use is distinguished from other social service providers, categorized elsewhere within category 3.000, which may also include a kitchen facility but that are primarily oriented to servicing members of the organization, with only incidental service provided to the public. **(AMENDED 3/22/16)**

SOLAR ARRAY. A photovoltaic cell, module, panel or array that is accessory to the principal use of a property and is designed solely for the purpose of reducing or meeting on-site energy needs. Roof mounted or building integrated arrays must be on a permitted structure, or one that is exempt on the basis of its size. Roof mounted arrays may be no more than 2000 square feet in size. Ground mounted arrays may be no greater than: 500 square feet in R-2 and R-3 districts; 1000 square feet in R-7.5, R-10, and R-S.I.R districts; 2000 square feet in R-15 and R-20 districts; and 5000 square feet in other districts. In addition, ground mounted arrays may be no greater than 50% of the size of the building footprint of the primary structure. Solar water heating panels may also be accessory to the principal use of a property subject to the criteria described above. **(AMENDED 06/27/17)**

SOLAR ARRAY FACILITY – LEVEL 1. Level 1 roof mounted or building integrated arrays must be on a permitted structure. Level 1 ground mounted arrays may be no greater than 50% of the size of the building footprint of the primary structure. In addition, Level 1 roof mounted arrays may not be more than 10000 square feet and Level 1 ground mounted arrays must be not more than: 2000 square feet in R-10 and R-S.I.R; 3000 square feet in R-15 and R-20; and 10000 square feet in other districts. **(AMENDED 06/27/17)**

SOLAR ARRAY FACILITY – LEVEL 2. Level 2 facility has a solar array (roof-mounted/building integrated or ground mounted) that does not qualify as an accessory or Level 1 facility and is not more than 1 acre. **(AMENDED 06/27/17)**

SOLAR ARRAY FACILITY – LEVEL 3. Level 3 facility has a solar array greater than 1 acre. **(AMENDED 06/27/17)**

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SOLAR WATER HEATER. A solar water heater is a system that uses a solar thermal collector to heat water. A solar water heater may also be accessory to the principal use of a property subject to the criteria described under “solar array” above. **(AMENDED 06/27/17)**

SPECIAL EVENTS. Circuses, fairs, carnivals, festivals, or other types of special events that (i) run for longer than one day but not longer than two weeks, (ii) are intended to or likely to attract substantial crowds, and (iii) are unlike the customary or usual activities generally associated with the property where the special event is to be located. **(AMENDED 10/13/81)**

SPECIAL EXCEPTION PERMIT. A permit issued by the board of adjustment that authorizes the recipient to deviate from the otherwise applicable requirements of this chapter under the specific circumstances and in accordance with the conditions set forth in section 15-92.1. **(AMENDED 06/21/94)**

SPECIAL USE PERMIT. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits. A permit issued by the board of adjustment that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the board of adjustment.

SPECIALTY HIGH VOLUME TRAFFIC GENERATION. Uses such as gift or craft stores, bookstores, music stores and similar uses, to the extent that each individual enterprise occupies (whether as tenant or owner occupant) a gross floor area of not more than 3,000 square feet. Without limiting the generality of the foregoing, pawn shops and firearms sales are specifically excluded from this definition. **(AMENDED 04/27/99)**

STORY. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it, a distance typically measuring between nine and fourteen feet. The term story does not include any building level(s) that are substantially enclosed below the finished grade at the front of the building, so long as the finished grade does not substantially differ from the pre-construction, natural grade. **(AMENDED 11/14/00; 4/8/03)**

STREAM. A body of water flowing in a natural surface channel. Flow may be continuous or only during wet periods. **(AMENDED 12/7/83)**

STREET. A public street or a street with respect to which an offer of dedication has been made.

STREET, ARTERIAL. A major street in the town’s street system that serves as an avenue for the circulation of traffic onto, out, or around the town and carries high volumes of traffic. The following streets are arterial streets:

Culbreth Road
Dairyland Road

Main Street
Merritt Mill Road

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Damascus Church Road	Hwy 54
Estes Drive	Old Greensboro Road
Eubanks Road	Old Hwy 86
Greensboro Street	Old Fayetteville Rd.
Hillsborough Road	Rogers Road
Homestead Road	Smith Level Road
Jones Ferry Road	Weaver Street (AMENDED 06/04/91)

STREET, COLLECTOR. A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.

STREET, CUL-DE-SAC. A street that terminates in a vehicular turn-around.

STREET, LOCAL. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but not more than twenty-five dwelling units and is expected to or does handle between seventy-five and two hundred trips per day.

STREET, MARGINAL ACCESS. A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

STREET, MINOR. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to seventy-five trips per day.

STREET, SUBCOLLECTOR. A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six but not more than one hundred dwelling units and is expected to or does handle between two hundred and eight hundred trips per day.

STRUCTURE. Anything constructed or erected.

SUBDIVISION. The division of a tract of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this chapter applicable strictly to subdivisions: (i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter, (ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or (iii) the public acquisition by purchase of strips

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of land for widening or opening of streets or for public transportation system corridors; or (iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter; or (v) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the N.C.G.S.; (AMENDED 10/24/06)

SUBDIVISION, ARCHITECTURALLY INTEGRATED NONRESIDENTIAL(REPEALED 4/24/84)

SUBDIVISION, ARCHITECTURALLY INTEGRATED RESIDENTIAL. (REPEALED 4/24/84)

SUBDIVISION, ARCHITECTURALLY INTEGRATED. A subdivision in which approval is obtained not only for the division of land into lots but also for a configuration of principal buildings to be located on such lots. The plans for an architecturally integrated subdivision shall show the dimensions, heights, and location of all such buildings to the extent necessary to comply with the purpose and intent of architecturally integrated subdivisions as set forth in Section 15-187.

SUBDIVISION, MAJOR. Any subdivision other than a minor subdivision.

SUBDIVISION, MINOR. A subdivision of property located outside of the watershed districts that does not involve the creation of more than a total of four lots or the creation of any new public streets. (AMENDED 7/21/87; 12/15/87; 6/22/10)

SUBSTANTIAL MODIFICATION. (See Section 15-176). The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below: (AMENDED 6/23/20)

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

TEMPORARY HOME FOR HOMELESS. A home owned or operated by a non-profit agency for not more than fifteen persons who satisfy the following criteria and who are in need of temporary housing, together with not more than two resident managers. All residents of such home, other than the manager shall: (i) be accepted only upon referral from an established agency within the community such as the Carrboro or Chapel Hill Police Departments, Inter-Faith Council, Salvation Army, etc. (ii) need housing and intend to reside within the home for at least a week while looking for more permanent accommodations within the community, (iii) be in need of temporary shelter because of

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some temporary emergency or exigency (e.g., pregnant teenagers, battered wives, newly unemployed persons evicted from their homes) and not because of transiency, de-institutionalization, chronic unemployment, alcoholism, or drug abuse.

TEMPORARY SIGN. A sign that *(i)* is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or *(ii)* is intended to remain on the location where it is erected or placed for a period of not more than fifteen days. If a sign display area is permanent but the message displayed is subject to periodic change, that sign shall be regarded as temporary.

TOWER. A structure whose principal function is to support one or more antennas. See also Wireless Support Structure. (AMENDED 02/18/97) (AMENDED 6/23/20)

TOWN RIGHT-OF-WAY. A right-of-way owned, leased, or operated by a town, including any public street or alley that is not a part of the State highway system. (AMENDED 6/23/20)

TOWN UTILITY POLE. A pole owned by a town in the town right-of-way that provides lighting, traffic control, or a similar function. (AMENDED 6/23/20)

TRACT. A lot (see definition 37). The term is used inter-changeably with the term lot, particularly in the context of subdivisions, where one “tract” is subdivided into several “lots”.

TREE DIAMETER. The width of a tree’s trunk, measured four and one half (4½) feet above the ground. (AMENDED 03/21/89)

TRAVEL TRAILER. A structure that is *(i)* intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and *(ii)* is designed for temporary use as sleeping quarters, but that does not satisfy one or more of the definitional criteria of a mobile home.

UNDERGROUND UTILITY LINE. Any underground utility lines (including, but not limited to, electrical, cable television, telephone, and natural gas, but excluding water and sewer lines constructed by the Orange Water and Sewer Authority) that are installed outside of public street rights-of-way and are not permitted pursuant to any other land use permit, and where any lines would eventually be dedicated to a governmental entity, nonprofit organization, or any entity defined as a public utility for any purpose by Section 62.3 of the North Carolina General Statutes. (AMENDED 5/24/05)

UNIVERSITY LAKE WATERSHED. All the land area contributing water to University Lake. (AMENDED 12/7/83)

USE. The activity or function that actually takes place or is intended to take place on a lot.

USE, PRINCIPAL. A use listed in the table of permissible uses.

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UTILITY FACILITIES. Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, corporation, or any entity defined as a public utility for any purpose by Section 62.3 of the North Carolina General Statutes and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures listed in subsection 15-151 (2).

UTILITY FACILITIES, NEIGHBORHOOD. Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

UTILITY FACILITIES, COMMUNITY OR REGIONAL. All utility facilities other than neighborhood facilities.

VARIANCE. A grant of permission by the board of adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter, he could not otherwise legally do.

VEHICLE ACCOMMODATION AREA. That portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

VEHICLE STORAGE AREA. That portion of a vehicle accommodation area used in connection with a 9.200 or 9.400 classification use as a place to park vehicles temporarily while they are waiting to be worked on or pending the pick-up of such vehicles by their owners. **(AMENDED 2/4/86)**

WATER DEPENDENT STRUCTURE (DELETED 3/24/09)

WATERSHED DISTRICTS. Those zoning districts that are applied to land within the University Lake Watershed, specifically, the C, B-5, WR, and WM-3 districts. **(AMENDED 12/15/87; 05/15/90)**

WATERSHED RESEARCH. Small scale research facilities owned by the federal, state, or local governments and operated by or under contract with such government, which facilities do not involve the use, production, storage, or disposition of toxic or hazardous substances and which facilities relate to the study of the environment of the watershed or some other activity compatible with a close proximity to the community's water source.

WHOLESALE SALES. On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

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The term includes small wireless facilities. Also refers to Wireless Telecommunications Facility. The term shall not include any of the following: **(AMENDED 6/23/20)**

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (4) Amateur radio antennas. See also, Section 15-150(5) Towers and antennas constructed on residential property and G.S. § 160D-931~~G.S. § 160A-400.51~~.

WIRELESS SUPPORT STRUCTURE. A new or existing structure, such as a monopole, lattice tower, or guyed tower, that is designed to support or capable of supporting wireless telecommunications facilities, radio or TV antennas. A utility pole is not a wireless support structure. **(AMENDED 6/23/20)**

WOODED AREA. An area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater caliper tree per 325 square feet of land where the branches and leaves form a contiguous canopy. **(AMENDED 4/24/84)**

ZONING MAP AMENDMENT OR REZONING. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of the town that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the town, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district

ZONING PERMIT. A permit issued by the land use administrator that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

Section 15-16 Lots Divided by District Lines.

(a) Whenever a single lot two acres or less in size is located within two or more different zoning districts, the district regulations applicable to the district within which the larger portion of the lot lies shall apply to the entire lot.

(b) Whenever a single lot greater than two acres in size is located within two or more zoning districts, then: **(AMENDED 1/22/85; 3/12/85; 2/24/87)**

- (1) If each portion of the lot located within a separate district is equal to or greater than the minimum lot size for that district, then each portion of the lot shall be subject to all the regulations applicable to the district in which it is located.

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- (2) If any portion of the lot located within a separate district is smaller than the minimum lot size for that district, then such smaller portion shall be regarded as if it were in the same zoning district as the nearest larger portion to which it is attached.

(c) This section applies only to lots created on or before the effective date of this chapter unless the board of adjustment, in a proceeding under Section 15-93 to determine district boundaries, concludes that a lot established after the effective date of this section was not created to bring additional lot area within a more intensive zoning district, or otherwise to take unfair or unwarranted advantage of the provisions of this section.

Section 15-17 through 15-20 Reserved.

ARTICLE XIII

RECREATIONAL FACILITIES AND OPEN SPACE

Section 15-196 Active Recreational Areas and Facilities Required (AMENDED 5/10/83; 4/24/84; 12/10/85; 10/22/13)

(a) Subject to subsection (d) and Sections 15-197 and 15-203, all residential developments shall provide active recreational areas and facilities to such an extent that the sum total of recreation points assigned to each recreational area and facility [under subsection (b)] equals or exceeds the number of recreation points required of that development in accordance with the remaining provisions of this section.

(b) For purposes of this section, a recreation point is a unit of measurement that allows various types of recreational areas and facilities to be compared to one another. As set forth more fully in Appendix G to this chapter, the principal criterion upon which recreation points are assigned to various facilities is the cost associated with the development of such facilities. The following table establishes the recreation points assignable to the facilities listed. Points for facilities not included in the table below shall be determined by the permit issuing authority by applying the methodology set forth in Appendix G.

TYPE FACILITY	POINTS/SQUARE FOOT	TYPICAL POINTS	SQUARE FEET
Swimming Pool	.463	356	(768)
Swimming Pool Patio	.020	6	(2820)
Tennis Court (1)	.034	245	(7200)
Tennis Court (2)	.028	403	(14400)
Tennis Court (4)	.025	720	(28800)
Basketball Court	.058	139	(2400)
Volleyball Court	.014	25	(1800)
Hiking/Biking Trail	.016	64	(4000)
Fitness Station	.022	9	(400)
Picnic Shelter	.148	37	(250)
Gazebo	.326	102	(314)
Clubhouse	.508	609	(1200)
Play Equipment	.107	136	(1275)
Slide	.514	8	(16)
Swing	.176	8	(48)
Climber	.160	8	(50)
Ladder	.108	5	(48)
Balance Beams	.075	3	(40)
Pullup Bars	.330	3	(8)
Seesaw	.076	6	(80)
Whirl	.333	9	(28)
Sandbox	.097	6	(64)
Baseball Field	.010	675	(67500)
Football/Soccer Field	.011	396	(36000)
Indoor Fitness Center	.81	810	(1000)

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(c) The minimum total of recreation points required of any development shall equal the sum of the recreation points assigned to each type of dwelling unit or lot proposed for that development in accordance with the following (The methodology for determining the assignment of recreation points to residential type is set forth in Appendix G.):

TYPE OF RESIDENCE (By Use Classification)	POINTS PER DWELLING UNIT
1.100 Single Family detached	10.39
1.120 Includes mobile home parks	11.25
1.200 Two-family residences	10.39
1.300 Multi-family residences	
One Bedroom	5.94
Two Bedroom	9.47
Three or more Bedroom	11.81
1.340 Single-Room Occupancy	2.97

With respect to residential subdivisions other than architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit or that is limited by restrictive covenants to development only with a single dwelling unit shall be deemed to house one single-family detached dwelling unit. Subject to Section 15-197, lots that are large enough to accommodate more than one dwelling unit and are not so limited by restrictive covenants shall be deemed to house the largest number of two-bedroom multi-family units that could be approved under this chapter. **(AMENDED 10/10/00)**

(d) The ~~Council Board~~ recognizes that some developments will contain such a small number of dwelling units that the active recreational areas and facilities required pursuant to this section would be of minimal practical value and that maintenance of such areas for so small a development would likely prove problematic. Therefore, the following types of residential developments shall not be required to provide active recreational areas and facilities under this section but shall be required to pay to the town's open space and recreational facilities fund a fee in lieu thereof in accordance with Section 15-203 if the town determines that it will be feasible to provide active recreational areas and facilities on land that can reasonably be expected to serve the residents of such developments:

- (1) Unsubdivided developments that are small enough so that the minimum amount of recreation points required of such developments is not more than 80. **(AMENDED 2/24/87)**
- (2) Subdivided residential developments of less than fifteen dwelling units. **(AMENDED 06/27/95)**
- (3) For purposes of this subsection, the term "development" refers to the entire project developed on a single tract or contiguous multiple tracts under common ownership or control, regardless of whether the development is constructed in phases or stages. **(AMENDED 2/24/87)**

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(e) If the proposed development contains land subject to the provisions of 15-198(e), then a bike and pedestrian path that has the potential of connecting with similar type facilities on adjoining tracts that also have lands subject to the provisions of 15-198(e) shall be provided within this area, unless the permit issuing authority concludes that such a bike and pedestrian path would be environmentally undesirable or economically unfeasible. **(AMENDED 06/27/95)**

(f) Play equipment suitable for children under 12 should comprise at least 10% of the total required recreation points of single-family units and 5% of the points required of multi-family units in a development. Residential developments consisting of solely single-room occupancy units shall be exempt from the requirement to provide play equipment suitable for children. **(AMENDED ON 10/10/00)**

(g) Active recreational facilities and areas should be located throughout the development so that they can be reached safely and easily by their anticipated users. Such facilities and areas should be on land that is suitable for the intended use, have a minimum of 1200 square feet per area, and be sufficiently screened to minimize the impacts on adjacent residences.

(h) When the cost of the land associated with recreational facilities is included in calculating the recreational points for such facilities under this section, then such land may generally not also be credited toward the fulfillment of the mandatory open space requirements set forth under Section 15-198. Exceptions to this policy are as follows:

- (1) Play fields, including without limitation baseball fields, soccer fields, and football fields;
- (2) Bike and pedestrian paths constructed pursuant to subsection (e) of this section. (Only the area that is within the width of the dedicated easement for the bike and pedestrian area is subject to the double counting provision.) **(AMENDED 06/27/95)**

(i) **(AMENDED 4/8/03; REPEALED 6/12/07)**

Section 15-197 Exception to Recreational Facilities and Open Space Requirements.

(a) If an application is submitted for a subdivision and the application does not also seek approval for the development of improvements to the subdivision (such as the extension of water and sewer facilities or the creation of public streets or private roads) or the construction of buildings or other substantial improvements on any lot so subdivided, then the ~~Council Board~~ (for a major subdivision) or the planning director (for a minor subdivision) may approve the subdivision without requiring the provision of active recreational areas and facilities (Section 15-196) or the provision of usable open space (Section 15-198) if the subdivision approval authority finds that the property is being subdivided for purposes other than the desire to accommodate a present plan to develop any of the lots so created in any manner other than the use as a single-family detached residence. **(AMENDED 10/08/96)**

(b) The requirements of this article shall not apply to the reconstruction or enlargement of pre-existing single-family residential dwelling units or to the reconstruction or renovation of

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pre-existing multi-family units, except to the extent that such reconstruction or renovation of multi-family residences increases the number of dwelling units or bedrooms within any such residential development. (AMENDED 10/08/96)

Section 15-198 Open Space (AMENDED 04/24/84; 03/26/85; 12/10/85; 11/11/86; REWRITTEN 06/27/95; 06/20/06; AMENDED 3/24/09; 3/23/10)

(a) The ~~Council~~Board finds that when land is developed for residential purposes, the public health, safety, and welfare are best served when substantial portions of the tracts so developed remain as common open space. The preservation of such open space areas serves the following important objectives, to the benefit of the residents of such developments as well as the general public:

- (1) Preservation of open vistas, providing relief from an urban landscape;
- (2) Preservation of environmentally sensitive lands;
- (3) Preservation of habitat for wildlife;
- (4) Preservation of historically or archaeologically significant areas;
- (5) Provision of areas for passive recreation, such as walking or jogging.

(b) For purposes of this section:

- (1) Open space refers to an area that:
 - a. Is not encumbered with any substantial structure;
 - b. Is not devoted to use as a roadway, parking area, or sidewalk;
 - c. Is not part of any privately owned lot that is used or intended for use for residential purposes;
 - d. Is legally and practicably accessible to the general public or to the residents of the development where the open space is located.
- (2) Narrow strips of common area that separate lots within a development from each other, from streets, or from adjoining tracts shall generally not be regarded as open space within the meaning of this section unless such areas:
 - a. Are at least 50 feet in width and capable of functioning as a substantial visual buffer; or
 - b. Are configured and/or improved (e.g. through the installation of trails) in such a way as to be conducive to actual use for passive recreational purposes (i.e. walking or jogging) by residents of the development where located.

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- (3) The following areas shall be regarded as open space if such areas satisfy at least the criteria set forth in Subdivision (1) a, b, and c of subsection (b) of this section:
- a. Utility easements located outside of street rights of way;
 - b. Cemeteries located on a tract prior to its development.
 - c. Areas used for the growing of crops, such as hay, corn, or vegetables, if and to the extent that such uses occur within an area that is subject to the control of a homeowners association and such uses are approved by the homeowners association. **(AMENDED 05/25/99)**
- (4) The term “primary conservation areas” shall mean: **(AMENDED 05/25/99; 6/20/99)**
- a. Areas containing slopes greater than 25%
 - b. Hardwood areas as designated in the Geographic Information System (GIS) of the Town of Carrboro. **(AMENDED 3/24/09)**
 - c. Wetlands as defined pursuant to Section 404 of the Clean Water Act
 - d. Floodplains
 - e. Water quality buffers on perennial and intermittent streams. **(AMENDED 3/24/09)**
 - f. Lakes and ponds;
 - g. Road buffers as required by Section 15-312 of this Chapter, except for those portions of the buffers that must be included in road or utility crossings.
- (5) The term “secondary conservation areas” shall mean: **(AMENDED 05/25/99)**
- a. Areas containing slopes greater than 15% but not more than 25%;
 - b. Wooded areas other than hardwood areas as designated in the Geographic Information System (GIS) of the Town of Carrboro. **(AMENDED 3/23/10)**
 - c. Vistas along entranceways to the town;
 - d. Other areas containing unusual natural features (such as major rock formations);

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- e. With respect to streams designated on the adopted Stream Classification Map of the Town of Carrboro, those areas within an average perpendicular distance of sixty feet from the edge of the floodway of the stream, if the floodway is designated on the "Flood Boundary and Flood Map" prepared by the U.S. Department of Housing and Urban Development or sixty feet from the centerline of the stream where the floodway is not designated on the map.
- f. Other environmentally, historically, or archaeologically significant or unique areas, including water quality buffers on ephemeral streams. **(AMENDED 3/24/09)**

(c) Except as otherwise provided in subsection (j) and Section 15-203, every residential development in zoning districts other than the R-2, ORMU, B-1(c), B-1(G), B-2, and CT zoning districts shall be developed so that at least forty percent (40 percent) of the total area of the development remains permanently in open space. Every residential development in the R-2 and ORMU district shall be developed so that at least twenty percent (20 percent) of the total area of the development remains permanently as open space. **(AMENDED 09/05/95; 06/20/06; 6/12/07)**

(d) Subject to subsection (g), every residential development containing at least 25 lots or dwelling units shall contain, as part of its required open space, one or more areas that are relatively flat, well drained, grassed, and otherwise well suited for use as a play field:

- (1) Each such area shall contain a minimum of 20,000 square feet configured in such a manner as to be useful as a play field.
- (2) Every development covered by this subsection shall set aside in one or more play fields meeting the criteria of this subsection a minimum of 400 square feet of area per lot or dwelling unit within the development.
- (3) Play fields provided under this section shall be located with due regard for the safety and convenience of those using such facilities as well as the welfare of residents living nearby. The play fields required by this subsection shall be located such that 90% of the lots or dwelling units within any development that is required to install such play field are within 1,500 feet of a play field installed to meet the requirements of this subsection, unless the developer demonstrates by clear and convincing evidence that adherence to this requirement would not be feasible.
- (4) Play fields constructed to meet the requirements of this subsection may be used by the developer to satisfy the active recreational requirements set forth in Section 15-196 as well as the open space requirements of this section. However, the recreation points assigned to such play fields shall be based upon the actual cost of constructing such play fields, exclusive of land costs. **(AMENDED 05/25/99)**

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- (5) Notwithstanding the foregoing, the playfield requirement will not apply to residential mixed use developments located within the OR-MU zoning district. **(AMENDED 6/20/06)**

(e) Subject to subsection (g), if a tract where a residential development is proposed contains any areas defined above as primary conservation areas, then such areas shall be designated as open space. **(AMENDED 05/25/99)**

- (f) **RESERVED (AMENDED 05/25/99)**

(g) A developer shall not be required to set aside as open space under the provisions of subsections (d) and (e) more than the minimum required percentage of open space set forth in subsection (c). If the sum total of open space otherwise required under the provisions of subsections (d) and (e) exceeds forty percent of the development tract (twenty percent in the R-2 district), then the permit issuing authority shall allow the developer to set aside a smaller area of open space under subsections (d) and (e), individually or collectively, so that the developer is not required to preserve as open space more than forty percent of the development tract (twenty percent in the R-2 district). However, if areas that constitute primary conservation areas have not been set aside as open space, then the development plans shall otherwise provide for the preservation of such areas even though they may be located within privately owned lots (e.g. by specifying buildable areas within individual lots). Notwithstanding the foregoing, hardwood areas identified in the Geographic Information System (GIS) of the Town of Carrboro that are not set aside as common open space shall be preserved except to the extent that removal of such hardwood trees is necessary to accommodate the permitted uses created out of land not set aside as common open space. **((AMENDED 09/05/95; 05/25/99; 3/23/10)**

(h) If the area of open space required to be preserved under subsections (d) and (e) does not exceed forty percent (40%) of the area of the development tract (20% in the R-2 district), then the permit issuing authority may require that the developer set aside from among the areas that constitute secondary conservation areas as defined above an amount of open space equal to the difference between the amount of open space preserved under subsections (d) and (e) and forty percent (40%) of the development tract (20% in the R-2 district). **(AMENDED 09/05/95; 05/25/99)**

(i) Except as otherwise set forth in this section, the choice as to the areas to be set aside as open space shall remain with the developer.

(j) Subdivided residential developments of less than fifteen dwelling units are exempt from the requirements of this section unless the town agrees that it will accept an offer of dedication of such open space, and in that case the offer of dedication shall be made. Subdivided residential developments exempted by this subsection from the requirement of providing usable open space shall be required to make a payment in lieu thereof to the town's open space and recreational facilities fund in accordance with Section 15-203 if the town determines that it will be possible to provide usable open space areas that are reasonably expected to benefit or serve the residents of such developments. For purposes of this subsection, the term "developments" shall have the same meaning as is set forth in subsection 15-196(d)(3).

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(k) Residential developments consisting solely of multi-family, single-room occupancy units (1.340) shall be exempt from the requirements of this section. (AMENDED 01/11/00)

Section 15-199 Ownership and Maintenance of Recreational Facilities and Open Space Not Dedicated to the Town (REWRITTEN 06/27/95)

(a) Unless the town requires that recreational facilities or open space be dedicated to the town or agrees to accept an offer of dedication voluntarily made by the developer, such recreational facilities and open space shall remain under the ownership and control of the developer (or his successor) or a homeowners' association or similar organization that satisfies the criteria established in Section 15-201. If such recreational facilities and open space are not publicly dedicated, they shall be made available to all residents of the development under reasonable rules and regulations established to encourage and govern the use of such facilities and open space by the residents without payment of separate optional fees or charges other than membership fees in a homeowners' association. Such facilities and open space may be made available to a limited extent on a fee basis to persons who are not residents of the development where such facilities or open space are located, so long as such use does not become so extensive as to remove the facilities and open space from the category of an accessory use to a residential development and transform the use to a separate principal use classification (see use classification 6.000) under the Table of Permissible Uses.

(b) The person or entity identified in subsection (a) as having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same.

Section 15-200 Dedication of Open Space (AMENDED 11/26/85; REWRITTEN 06/27/95; REPEALED 09/05/95)

Section 15-201 Homeowners' Association (AMENDED 11/26/85)

Homeowners' associations or similar legal entities that, pursuant to Section 15-199, are responsible for the maintenance and control of common areas, including recreational facilities and open space, shall be established in such a manner that:

- (1) Provisions for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
- (2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
- (3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities; and
- (4) The association will establish a capital fund for the maintenance and upkeep of common areas and facilities and a method of contributing to that fund which

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will spread the costs of said maintenance and upkeep to the residents over a number of years. (AMENDED 11/26/85)

Section 15-202 Flexibility in Administration Authorized.

(a) The requirements set forth in this article concerning the amount, size, location and nature of recreational facilities and open space to be provided in connection with residential developments are established by the ~~Council~~Board as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted town plans. The ~~Council~~Board recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the permit issuing body is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

(b) Whenever the permit issuing ~~authority~~board authorizes some deviation from the standards set forth in this article pursuant to subsection (a), the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

Section 15-203 Fees in Lieu of Active Recreational Areas and Facilities or Usable Open Space.

(a) When the permit-issuing authority determines (upon the recommendation of the recreation director) that the recreational needs of a development required by Section 15-196 to construct active recreational areas and facilities could also be adequately met by facilities constructed on town property that is located close enough to such development to reasonably serve its residents, the town may authorize the developer to pay a fee to the town's open space and recreational facilities fund in lieu of providing on-site facilities. For purposes of this subsection, "town property" means property that is owned by the town or that the town has made plans to acquire within a reasonable time. (AMENDED 2/20/90)

(b) With respect to residential developments that are exempt from the requirement of providing on-site active recreational areas and facilities under Subsection 15-196(d) or exempt from the requirement of providing usable open space under Subsection 15-198(j) and that choose not to provide such facilities or open space, the town shall accept and the developer shall pay a fee to the town's open space and recreational facilities fund if the permit-issuing authority determines that the town has acquired or has made plans to acquire within a reasonable time the necessary land to provide usable open space or a site for recreational facilities that can be expected to benefit or serve such developments.

(c) The minimum amount of the fee paid under this section in lieu of active recreational areas and facilities shall be determined by multiplying the amount of recreation points that would otherwise be required of the development under Section 15-196 by the dollar value per point established in the town's miscellaneous fees and charges schedule. However, nothing herein shall prevent a developer from paying a fee that exceeds the minimum fee established pursuant to this

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subsection, and the town's willingness to allow a payment of fees in lieu of on-site provisions of facilities or open space under subsection (a) may depend upon the developer's agreement to pay fees in excess of the minimum.

(d) The minimum amount of the fee paid under this section in lieu of usable open space shall be determined by multiplying the square footage of open space that would otherwise be required of the development under Subsection 15-198(c) by the dollar value per square foot established in the town's miscellaneous fees and charges schedule.

(e) With respect to any development that is authorized or required by this section to pay a fee in lieu of providing recreational facilities or usable open space, no use may be commenced, lot sold, or building occupied unless the fee has been paid. If a development is intended to be sold or occupied on a phase-by-phase basis, payment of the fee relating to each phase must first be made.

Section 15-204 Downtown Livability Area and Urban Amenities Provisions

(a) The ~~Council~~**Board** concludes that when land is developed substantially for residential purposes in the downtown, defined for purposes of this section as those areas zoned B-1(G), B-1(c), B-2, or CT, the public health, safety, and welfare are best served when portions of such properties are developed as "downtown livability areas" and improved with "urban amenities" as those terms are used in this section. The development of such properties in this way may serve some or all of the following important objectives, to the benefit of downtown business owners, shoppers, workers, pedestrians, and residents, as well as the general public:

- (1) provide relief from the high-density built environment (for example by mitigating urban temperature, pollution, glare);
- (2) enhance the pedestrian experience;
- (3) promote walking and biking in the downtown area;
- (4) decrease stormwater runoff;
- (5) provide food or habitat for wildlife;
- (6) provide opportunities for artistic expression or the enjoyment of the same;
- (7) provide opportunities for social gathering.

(b) For purposes of this section, "downtown livability area" (DLA) refers to an outdoor area that (i) is not devoted to use as a roadway, parking area, required sidewalk, or required shade tree islands in parking lots; (ii) is legally and practically accessible to all of the residents, occupants, tenants, and owners of the property to which the DLA appertains (except that balconies and roof areas developed as DLA with or without urban amenities need not be so accessible); (iii) is not encumbered with any substantial structure other than an urban amenity; and (iv) with or without the improvement of an urban amenity, achieves one or more of the objectives set forth in subsection (a) of this section. An "outdoor area" means an area that is either not under roof or, if

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under roof, is permanently open to the outdoors on at least 50 percent of the circumference of such area. A “green roof” means a roof of a building or structure (or portion thereof) that is covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane.

(c) For purposes of this section, “urban amenities” refers to improvements that (i) are located or constructed within downtown livability areas, and (ii) are designed, installed, and maintained to achieve one or more of the objectives set forth in subsection (a) of this section, together with any improvements necessary to support the function or safety of or provide access to such amenities. Urban amenities include but shall not be limited to the following: water features (reflecting pools, fountains); special visual or environmental exterior features incorporated into building architecture, public art; historic markers, features, or places; shade-producing street trees; outdoor furniture for seating, playing games, or picnicking; arbors, trellises, or pergolas with live plants; balcony plantings; birdfeeders, birdhouses, and birdbaths; widened sidewalks; covered bike racks; garden perimeter walls low and wide enough to accommodate sitting and lounging; green roofs.

(d) For downtown developments in which 25 percent or more of the gross floor area is for residential use only, the downtown livability area and urban amenities requirements are as follows:

- (1) The site shall be developed so that an area (measured in square feet) equal to at least 12 percent of the total land area remains permanently as downtown livability area, provided that:
 - a. DLA can be reduced to 10 percent of the land area if the DLA is substantially landscaped with grass, vegetative ground cover, plants, shrubs, bushes, or other vegetative landscaping and that is shaded to the extent of at least 35 percent of such area at noon on June 21st by building, awnings, pergolas, other structures, or shade trees, constructed or planted within or adjacent to such DLA.

For purposes of this subsection a “shade tree” means a tree whose height at maturity can be expected to exceed 20 feet, and of a species, according to its shape, size, and leaf size, that can be expected to provide shade during the growing season. (Please refer to LUO Appendix E, page E-13, “Trees for Shading” for examples of appropriate tree species for provision of shade.)
 - b. DLA can be reduced to 10 percent of the land area if it is legally, practically, and visually accessible to the general public.
 - c. The DLA can be reduced to 7 percent of the land area if it meets both the criteria set forth in (d)(1)b and (d)(1)c.
- (2) The dollar value of the urban amenities to be installed within the downtown livability area shall equal an amount to 7 percent of the assessed value of the land

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that constitutes the development site, determined as of the date the development permit is approved.

When a development that is subject to this requirement contains a residential component, and the developer either provides recreation facilities or makes a payment in lieu to satisfy the requirements of this article, then such developer shall receive a credit toward the fulfillment of such developer's urban amenities obligation, if the amenities are publicly accessible, in the amount of 50 percent of the dollar value of the recreational facilities installed (determined by multiplying the recreational points associated with the facilities installed by the dollar value of such points as set forth in the town's miscellaneous fees and charges schedule) or the dollars paid in lieu of installing facilities.

(e) Notwithstanding the foregoing, when property is developed pursuant to Section 15-160.1(b) the dollar value of urban amenities, required by Subsection 15-204(d)(2) may be reduced to 3.5 percent of the assessed value of the land that constitutes the development site. **(Amended 06/02/20)**

(f) The dollar value of the urban amenities shall be determined in the permit review process. The developer shall submit sufficiently detailed information as to the particular amenities to be installed and the cost of such amenities to allow the permit issuing authority to determine whether the requirements of this section will be satisfied.

(g) The requirements of this section shall not apply to permits issued for single-family or two-family dwellings or to those developments described in Section 15-197 of this article.

(h) The requirements of this section shall not apply to previously developed lots if the developer demonstrates to the reasonable satisfaction of the permit issuing authority that the cost of the work proposed under the new permit is less than 50 percent of the assessed value of the improvements already on the lot when the applications for the new permit is filed.

(i) For the purposes of this section, the term "development site" shall mean the lot where the development occurs, except that if less than 50 percent of such lot is proposed to be the subject of improvements authorized under the requested permit (including the construction of buildings, parking, landscaping, and/or significant improvements), then the term "development site" shall refer just to the portion of such lot where the improvements authorized by the permit are to be constructed.

Section 15-205 Fees in Lieu of Downtown Livability Area and Urban Amenities

(a) When the permit-issuing authority determines that it is physically impossible or impracticable for a development to satisfy the downtown livability area and urban amenities requirements of Section 15-204, then the permit-issuing authority may authorize the developer to pay a fee to the town's downtown livability area and urban amenities fund in lieu of complying with such requirements. The permit authority may allow such a payment in lieu only if it concludes that the objectives set forth in Subsection 15-204(a) could also be adequately met by having the town construct urban amenities on town property that is located within the downtown area. For

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purposes of this subsection, “town property” means property that is owned by the town or that the town has made plans to acquire within a reasonable time.

(b) The amount of the fee paid under this section in lieu of downtown livability area shall be equal to the product of the number of normally required square footage of DLA that is not being provided times the per square foot assessed value of the lot on which such development is proposed. The amount of the fee paid under this section in lieu of urban amenities shall be determined as follows: the dollar amount of urban amenities that would otherwise be required to be constructed on the development site in accordance with the provisions of Section 15-204 shall be calculated, and from this amount shall be subtracted the dollar amount of urban amenities (if any) that are placed on the development site within any downtown livability areas that are provided.

(c) With respect to any development that is authorized to pay a fee in lieu of providing downtown livability area or urban amenities, no use may be commenced, lot sold, or building occupied unless the fee has been paid. If a development is intended to be sold or occupied on a phase-by-phase basis, payment of the fee relating to each phase must first be made.

Section 15-206 Ownership and Maintenance of Downtown Livability Areas and Urban Amenities

(a) Downtown livability areas and urban amenities provided in accordance with Section 15-204 shall remain under the ownership and control of the developer (or his successor) or a property owners’ association or similar organization that satisfies the criteria established in Section 15-201. Such downtown livability areas and urban amenities shall be made available to all owners, residents, occupants, and tenants of the development under reasonable rules and regulations established to encourage and govern the use of such downtown livability areas and urban amenities by the users without payment of separate optional fees or charges other than membership fees in a property owners’ association.

(b) The person or entity identified in subsection (a) as having the right of ownership and control over such downtown livability areas and urban amenities shall be responsible for the continuing upkeep and proper maintenance of the same.

Sections 15-207 through 15-209 Reserved.

ARTICLE XIV

STREETS AND SIDEWALKS

Section 15-210 Street Classification.

(a) In all new subdivisions, streets that are dedicated to public use shall be classified as provided in subsection (b).

- (1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;
- (2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive;
- (3) Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(b) The classification of streets shall be as follows:

- (1) **MINOR:** A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to seventy-five trips per day.
- (2) **LOCAL:** A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but not more than twenty-five dwelling units and is expected to or does handle between seventy-five and two hundred trips per day.
- (3) **CUL-DE-SAC:** A street that terminates in a vehicular turn-around.
- (4) **SUBCOLLECTOR:** A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six but not more than one hundred dwelling units and is expected to or does handle between two hundred and eight hundred trips per day.
- (5) **COLLECTOR:** A street whose principle function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve,

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directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.

- (6) **ARTERIAL:** A major street in the town's street system that serves as an avenue for the circulation of traffic into, out, or around the town and carries high volumes of traffic. The following streets are arterial streets:

Culbreth Road	Main Street
Dairyland Road	Merritt Mill Road
Damascus Church Road	N.C. Hwy 54
Estes Drive	Old Greensboro Road
Eubanks Road	Old Hwy 86
Greensboro Street	Old Fayetteville Rd.
Hillsborough Road	Rogers Road
Homestead Road	Smith Level Road
Jones Ferry Road	Weaver Street

(AMENDED 06/04/91)

- (7) **MARGINAL ACCESS STREET:** A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.
- (8) **LOOP STREET.** A street having two points of intersection with the same street. (AMENDED 06/21/94)
- (9) **ALLEY.** A one-way service road providing a secondary means of public access to abutting property and not intended for general traffic circulation with a maximum length of 550 feet. (AMENDED 09/27/94)

Section 15-211 Access to Public Streets in General.

Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use. (AMENDED 5/10/83; 4/24/84)

Section 15-212 Access to Arterial Streets.

Whenever a major subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.

Section 15-213 Entrances to Streets.

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(a) All driveway entrances and other openings onto streets within the town's planning jurisdiction shall be constructed so that:

- (1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling on abutting streets; and
- (2) Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.
- (3) In considering (1) and (2) above, the following factors shall be considered: **(AMENDED 2/4/86)**
 - a. The nature of the abutting street, its capacity, use, speed and flow, and reasonably anticipated changes to the street; and
 - b. The nature of the proposed use of the land, the traffic generated, the existence and number of drive-in window(s), the internal system for moving vehicles while on the lot; and
 - c. The nature of the exit and entrance, the site distance, the distance from intersections, the alignment with other drives and streets, turning controls or limitations.
 - d. As a minimum, no drive should be located within 250 feet of an intersection of an existing or planned arterial or collector road.

(b) As provided in G.S. 136-93, no person may construct any driveway entrance or other opening onto a state-maintained street except in accordance with a permit issued by the North Carolina Department of Transportation. Issuance of this permit is prima facie evidence of compliance with the standard set forth in subsection (a).

(c) If driveway entrances and other openings onto town-maintained streets are constructed in accordance with the specifications set forth in Appendix B to this chapter, this shall be deemed prima facie evidence of compliance with the standard set forth in subsection (a).

(d) For purposes of this section, the term "prima facie evidence" means that the permit-issuing authority may (but is not required to) conclude from this evidence alone that the proposed development complies with subsection (a).

Section 15-214 Coordination with Surrounding Streets.

(a) The street system of a subdivision shall be coordinated with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

(b) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

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(c) Subject to subsection 15-217(a), subcollector, local, and minor residential streets shall connect with all surrounding streets to permit safe, convenient movement of traffic between residential neighborhoods and to facilitate access to neighborhoods by emergency and other service vehicles. The connections shall be created in such a way that they do not encourage the use of such streets by substantial through traffic. **(AMENDED 09/16/97; 05/06/03)**

(d) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

Section 15-215 Relationship of Streets to Topography.

(a) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and stormwater runoff objectives set forth in Article XVI, and subject to the design requirements relating to maximum grades set forth in subsection (b), street grades shall conform as closely as practicable to the original topography.

(b) As indicated in Section 15-216, the maximum grade at any point on a street constructed without curb and gutter shall be 8%. On streets constructed with curb and gutter the grade shall not exceed 8% unless no other practicable alternative is available. However, in no case may streets be constructed with grades that, in the professional opinion of the public works director, create a substantial danger to the public safety.

Section 15-216 Street Width, Sidewalk, and Drainage Requirements in Subdivisions
(AMENDED 08/27/96, 10/23/2018)

(a) Minor and local streets where the grade does not exceed 8% may be constructed without curb and gutter in accordance with the standards set forth in subsection (b). All other streets shall be constructed in accordance with the standards set forth in subsection (c). **(AMENDED 05/12/98)**

(b) Subject to subsections (d), (e), and (f), streets constructed without curb and gutter shall conform to the following standards as well as the specifications referenced in Section 15-219. To the extent practicable, the side slope of the drainage swale shall not exceed 4:1 on the street side and on the back side shall not exceed 3:1. When necessary, the minimum right-of-way shall be expanded to accommodate the proper construction of the travel lane, shoulders, swales, and (if applicable) a sidewalk within the right-of-way.

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TYPE STREET with Swales	MINIMUM ROW WIDTH	MINIMUM PAVEMENT WIDTH	BIKE LANES	MINIMUM SHOULDER 1 2 WIDTH	SIDEWALK REQUIREMENT
MINOR	47'	18'	NONE	6' 8'	NONE
LOCAL	47'	20'	NONE	6' 8'	ONE SIDE

(AMENDED 11/19/96; 05/12/98)

(c) Subject to subsections (d), (d1), (e), and (f), collector streets and other streets not constructed according to the requirements of subsection (b) shall conform to the requirements of this subsection and the specifications referenced in Section 15-219. Only standard 90° curb may be constructed, except that roll-type curb may be authorized by the permit issuing authority. Street pavement width shall be measured from curb face to curb face where 90° curb is used, and from the back of one curb to the back of the opposite curb where roll-type curb is used.

TYPE STREET with Curb & Gutter	MINIMUM ROW WIDTH	MINIMUM PAVE- MENT WIDTH	BIKE LANES	SIDEWALK REQUIREMENT
ALLEY (One-way)	20'	12'	NONE	NONE
Minor	37'	18'	NONE	NONE
Local	43'	20'	NONE	ONE SIDE
Subcollector	50'	26'	NONE	BOTH SIDES
Collector	60'	34'	BOTH SIDES	BOTH SIDES
Arterial	NCDOT Standards	NCDOT Standards	BOTH SIDES	BOTH SIDES

(AMENDED 11/19/96; 05/12/98)

(d) The ~~Council Board~~ may allow a deviation from the standards set forth in subsections (b) and (c) to allow the construction of a street divided by a landscaped median with one-way traffic proceeding in opposite directions on either side of the median. The ~~Council Board~~ may allow such a street if it finds that, if completed as proposed, such a street will (i) adequately and safely serve the functions streets are designed to serve, and (ii) will not impose on the town any undue or unreasonable costs or burdens relating to repair and maintenance.

(d1) The ~~Council Board~~ may, for any development approved with a class A ~~special conditional~~ use permit on property zoned ~~B-4-C-U or~~ B-4-CZ, authorize a deviation from the standards set forth in subsection (b) and Appendix C relative to streets and sidewalks if the ~~Council Board~~ concludes that (i) the proposed streets and sidewalks would serve the functions they are designed to serve as well as or better than streets and sidewalks constructed in conformity with subsection (b) and Appendix C; and (ii) such streets and sidewalks will not impose on the town any undue or unreasonable costs or burdens relating to repairs and maintenance.

(e) The ~~Council Board~~ may allow a deviation from the right-of-way minimums set forth in subsections (b) and (c) if it finds that (i) the deviation is needed because in order for a development to be served by a public street the street must be constructed within an area that is not of sufficient width to comply with the right-of-way criteria set forth above, (ii) a street that meets the pavement width criteria and substantially complies with the other criteria set forth above can be constructed within the right-of-way that can be made available; and (iii) that the applicant has shown that he has made a reasonable effort and attempted to purchase the necessary right-of-way.

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(f) The ~~Council~~**Board** may allow a deviation from the standard right-of-way minimums set forth in subsections (b) and (c) if it finds that the developer has obtained an agreement from the utility companies whose lines will need to be located within a street right-of-way to install such lines in a single trench or in some other fashion that allows the street right-of-way to serve all of its intended purposes with a lesser width than that specified in subsections (b) and (c).

(g) The sidewalks required by this section shall be at least five feet wide and constructed with concrete according to the specification set forth in Appendix C, except that the permit issuing authority may permit the installation of walkways constructed with mortarless laid brick pavement according to specifications set forth in Appendix C when it concludes that:
(AMENDED 12/08/98)

- (1) Such walkways shall serve the residents of the development as adequately as concrete sidewalks; and
- (2) Such walkways shall be more environmentally desirable or more in keeping with the overall design of the development.

(h) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement of at least ten feet in width to provide such access.

(i) In subdivision developments that abut a public street, sidewalks shall be constructed adjacent to such street if a sidewalk in that location is required by the officially adopted town sidewalk master plan. Whenever possible, such sidewalk shall be constructed within the public right-of-way.

(j) The sidewalks required by this section along streets with curb and gutter shall be constructed with a planting strip at least three feet in width, unless the permit-issuing authority allows the strip to be omitted or constructed at a lesser width upon a finding that such deviation from the presumptive standard is warranted to avoid environmental damage or to promote public safety. For purposes of this subsection, a planting strip shall mean a strip of land located between the back of the curb and the walkway. Such planting strips shall be planted with grass or otherwise landscaped. **(AMENDED 11/19/96; 12/08/98)**

Section 15-216.1 Street Widths, Sidewalk and Drainage Requirements in Certain Developments **(AMENDED 05/06/03)**

(a) When any tract of land is developed under circumstances requiring the issuance of a class A or class B special ~~or conditional~~ use permit, the street and road design requirements for streets other than collector streets that would otherwise be determined in accordance with the provisions of Sections 15-216 and 15-221 may be modified, by approval of the permit-issuing authority, to alternative street width and construction specifications, sidewalk and drainage requirements, as illustrated in Appendix C, for developments that

Art. XIV STREET AND SIDEWALKS (con't)

- 1) involve the extension of, or connection to, existing Town streets, the construction specifications of which do not meet the minimum standards established in Section 15-216 in association with Section 15-210 Street Classification;
- 2) meet the following low-impact development criteria:
 - a. preserves open space and minimizes land disturbance;
 - b. protects natural systems and preserves natural processes (including, but not limited to, drainage ways, vegetation, soils, and other sensitive areas);
 - c. maximizes the incorporation of natural site elements (including, but not limited to, wetlands, stream corridors, and mature forests), and;
 - d. decentralizes and micromanages stormwater at its source to the maximum extent practicable.
- 3) include a minimum of 15 percent affordable housing units (as defined in Section 15-182.4(a).

(b) Streets constructed in accordance with this Section shall conform to the following standards as well as specifications presented in Appendix C.

Type Street Alternative	Minimum ROW Width	Minimum Pavement Width	Bike Lanes	Minimum Shoulder Width 12	Sidewalk Requirement
Local	59'	20'	NONE	9 (2)	ONE SIDE
Subcollector	73'	26'(1)	NONE	9 (2)	BOTH SIDES (3)

- (1) Minimum pavement width may include the concrete grade beam illustrated in Standard Drawing No. 27, or structural equivalent as approved by the Town Engineer.
- (2) Nine feet of width may include a 3-foot planting strip, 5-foot sidewalk, and 1-foot separation between sidewalk and drainage/water quality structure.
- (3) May be modified by the permit-issuing authority.
- (4) Construction requirements as required in Appendix C and D of the Land Use Ordinance, unless otherwise specifically modified by these provisions or the notes included on standards in Appendix C and D.

(c) The permit-issuing authority may reduce the sidewalk requirement for subcollector streets meeting the alternative street standard from both sides to one side of the road if

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- a. The development contains a parallel system that is integrally designed and provides pedestrian access to the interior of the site;
- b. Any new public street passing through the development and the bulk of the facilities and activities are to occur on one side of the road;
- c. Any new public street connects to an existing street that does not meet public street standards and where the site conditions indicate that the full upgrade of the street to the town standards would not be practicable; and
- d. The developer is participating in off-site construction of, or improvements to public sidewalks that will connect the new development with the town's sidewalk system.

Section 15-217 General Layout of Streets.

(a) To the extent practicable, all streets shall be interconnected. Cul-de-sacs shall not be used unless the topography of the land does not allow a design that would make an interconnecting street practicable. **(AMENDED 09/16/97; 09/28/99)**

(b) All permanent dead-end streets [as opposed to temporary dead-end streets, see subsection 15-214(d)] shall be developed as cul-de-sacs in accordance with the standards set forth in subsection (c), unless construction of such cul-de-sacs is not reasonably possible given such factors as steep slopes or right-of-way limitations. Under such circumstances, the town may approve alternative designs that will provide a safe and convenient means for vehicular traffic to turn around (alternatives are suggested in Appendix C, Standard Drawing No. 19). Except where no other practicable alternative is available, such streets may not extend more than 550 feet (measured to the center of the turn-around). **(AMENDED 09/27/94, 09/16/97)**

(c) The right-of-way of a cul-de-sac shall have a radius of 60 feet if constructed without curb and gutter or a radius of 52 feet if constructed with curb and gutter. The radius of the paved portion of the turn-around for streets constructed without curb and gutter shall be 42' (measured to the outer edge of pavement) and for streets constructed with curb and gutter shall be 44.5' (measured to the back of the outer curb). If a developer chooses to provide an unpaved center island in the cul-de-sac, the island shall be landscaped and shall not be dedicated to the public; it shall remain under the ownership and control of the developer (or his successor) or a homeowners association or similar organization that satisfies the criteria established in Section 15-201. Cul-de-sacs containing center islands shall have a minimum pavement width of 18 feet if constructed without curb and gutter or 20 feet if constructed with curb and gutter (measured from inner edge of pavement to face of curb). Mountable 45° curbing shall be installed around the island in accordance with Town of Carrboro design specifications. Minimum design and construction specifications for cul-de-sacs are set forth in Appendix C.

Asymmetrical cul-de-sacs may be allowed with the approval of the public works director, town engineer, fire chief, and the applicable permit issuing authorities. **(AMENDED 2/20/90; 08/08/95; 09/16/97)**

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(d) Half streets (i.e., streets of less than the full required right-of-way and payment width) shall not be permitted except where such streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this chapter. **(AMENDED 09/16/97)**

(e) Streets shall be laid out so that residential blocks do not exceed 1,000 feet, unless no other practicable alternative is available. **(AMENDED 09/16/97)**

(f) Alleys shall not intersect with any arterials and shall meet the “Entrances to Streets” standards of Section 15-213. Alley radii at street intersections shall not be less than 15 feet. Alleys may run adjacent to lot line boundaries only and not parallel and adjacent to street right-of-way or front property boundaries. In determining conformance with Section 15-184(a), Setback Requirements, the right-of-way lines associated with alleys shall be regarded as lot boundary lines and not street right-of-way lines. **(AMENDED 09/27/94; 09/16/97)**

(g) To the extent practicable, portions of subcollector and collector streets that consist of stretches of 800 feet or more uninterrupted by intersections suitable for stop signs shall contain design features intended to discourage speeding and cut-through traffic, including but not limited to one or more of the following:

- (1) Curves with radius of 800 feet or less; or
- (2) Design features described in the town’s Residential Traffic Management Plan. **(AMENDED 09/16/97)**

Section 15-218 Street Intersections.

(a) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60°. Not more than two streets shall intersect at any one point, unless the public works director certifies to the permit issuing authority that such an intersection can be constructed with no extraordinary danger to public safety.

(b) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet except as provided in subsection (d). **(AMENDED 4/26/88)**

(c) Except as otherwise provided in subsection (d) and (e): **(AMENDED 4/26/88; REWRITTEN 1/26/10)**

- (1) No two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street.
- (2) When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

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(d) The provisions of this section shall not operate to prohibit any property from having direct access onto an adjacent public street, and when a literal application of the provisions of this section would otherwise prohibit all such access, the permit-issuing authority may allow the minimum deviation from the requirements of this section that is necessary to provide reasonable access. **(AMENDED 4/26/88)**

(e) Notwithstanding the foregoing, two streets may intersect with another street on the same side at a distance of less than 400 feet, measured from centerline to centerline of the intersecting streets, if the street with which the two streets intersect is connected to a street within a village mixed use development and a development itself is adjacent to a village mixed use development. However, in no event, may the two streets intersect at a distance of less than 125 feet. **(AMENDED 1/26/10).**

Section 15-219 Construction Standards and Specifications.

Construction and design standards and specifications for streets, sidewalks, and curbs and gutters are contained in Appendix C, and all such facilities shall be completed in accordance with these standards.

Section 15-220 Public Streets and Private Roads in Subdivisions.

(a) Except as otherwise provided in this section, all lots created after the effective date of this section shall abut a public street at least to the extent necessary to comply with the access requirement set forth in Section 15-211. For purposes of this subsection, the term “public street” includes a pre-existing public street as well as a street created by the subdivider that meets the public street standards of this chapter and is dedicated for public use. Unless the recorded plat of a subdivision clearly shows a street to be private, the recording of such a plat shall constitute an offer of dedication of such street. **(AMENDED 2/14/84)**

(b) Architecturally integrated residential subdivisions containing either twenty-five or more units, or consisting of four or more multi-family townhomes, may be developed with private roads that do not meet the public street and sidewalk standards of this chapter as long as: **(AMENDED 11/26/85; 6/25/02)**

- (1) The proposed development will have direct access onto a public street or, if the tract has access to a public street only via a private road, such private road is improved to public street standards;
- (2) No road intended to be private is planned to be extended to serve property outside that development; and
- (3) The standards applicable to unsubdivided developments set forth in Section 15-221 and 15-222 are complied with.

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(c) Subdivisions containing any number of lots may be developed with private roads that do meet the public street and sidewalk standards of this chapter but that are not intended for dedication to the public so long as:

- (1) The proposed development will have direct access onto a public street or, if the tract has access to a public street only via a private road, such private road is improved to public street standards;
- (2) No road intended to be private is planned or expected to be extended to serve property outside the development; and
- (3) The subdivider demonstrates to the reasonable satisfaction of the Council~~Board~~ that the private roads will be properly maintained.

(d) A subdivision in which the access requirement of Section 15-211 is satisfied by a private road that meets neither the public street standards nor the standards set forth in Section 15-221 may be developed so long as, since the effective date of this chapter, not more than three lots have been created out of that same tract.

- (1) The intent of this subsection is primarily to allow the creation of not more than three lots developed for single-family residential purposes. Therefore, the permit-issuing authority may not approve any subdivision served by a private road authorized under this subsection in which one or more of the lots thereby created is intended for (i) two-family or multi-family residential user or (ii) any non- residential use that would tend to generate more traffic than that customarily generated by three single-family residences.
- (2) To ensure that the intent of this subsection is not subverted, the permit-issuing authority may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential subdivision served by a private road authorized under this subsection be smaller than the permissible size lots on which two-family or multi- family developments could be located or that restrictive covenants limiting the use of the subdivided property in accordance with this subsection be recorded before final plat approval.

(e) No final plat that shows lots served by private roads may be recorded unless the final plat contains the following notations:

- (1) “Further subdivision of any lot shown on this plat as served by a private road may be prohibited by the Carrboro Land Use Ordinance.”
- (2) “The policy of the Town of Carrboro is that, if the town improves streets (i) that were never constructed to the standards required in the Carrboro Land Use Ordinance for dedicated streets, and (ii) on which 75% of the dwelling

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units were constructed after July 1, 1979, 100% of the costs of such improvements shall be assessed to abutting landowners.”

(f) The recorded plat of any subdivision that includes a private road shall clearly state that such road is a private road. Further, the initial purchaser of a newly created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the road, in accordance with the requirements set forth in G.S. 136-102.6(f). The intention of this subsection is to afford the same protection to purchasers of lots on private roads within the town as is provided to purchasers of lots outside the town by G.S. 136-102.6(f).

(g) For purposes of this section, a private road meets the public street and sidewalk standards of this chapter if it is designed and constructed and sufficient setbacks are provided so that, if intended for dedication, it could be accepted as a public street in conformity with the requirements of this chapter. **(AMENDED 11/26/85)**

(h) Notwithstanding the other provisions of this section, the town may prohibit the creation of a private road if the creation of such a road would avoid the public street interconnection requirements set forth in Sections 15-214 and 15-217(a). **(AMENDED 6/25/02)**

Section 15-220.1 Design Standards for Village Mixed Use Developments (AMENDED 5/28/02)

(a) Village mixed use developments may be designed in accordance with the North Carolina Department of Transportation Traditional Neighborhood Development (TND) Guidelines, August 2000. Where specific NCDOT TND design guidelines have been established, these may ~~supereedes~~^{supersede} any related street design standards contained in this Ordinance, as well as standards and guidelines for utilities, landscaping and similar considerations. In the absence of TND specific design guidelines, the existing standards, criteria, guidelines or policies shall be applied.

(b) For purposes of implementing the NCDOT TND Guidelines, a village mixed use development shall be deemed to be a “classic” TND.

Section 15-221 Road and Sidewalk Requirements in Unsubdivided Developments.

(a) Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving specifications shall be determined by the provisions of this chapter dealing with parking (Article XVIII) and drainage (Article XVI). To the extent not otherwise covered in the foregoing articles, and to the extent that the requirements set forth in this article for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this article may be applied to satisfy the standards set forth in the first sentence of this subsection.

(b) Whenever (i) a lot is proposed to be developed residentially for more than four dwelling units or non-residentially in such a fashion as to generate more than 40 vehicle trips per day, and (ii) if the lot were to be subdivided, a street would be required running through the lot to provide

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a connection between existing or planned adjacent streets in accordance with the provisions of Sections 15-214 and 15-217(a), then the developer shall be required to construct and dedicate the same street that would have been required had the property been subdivided. On Town-owned properties, the ~~Town Council~~**Board of Aldermen** may eliminate or reduce the requirements of this section for reservation and/or connection of right-of-way.

(AMENDED 6/25/02; 06/06/17)

(c) In all unsubdivided residential developments, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine dwelling units. **(AMENDED 4/24/84)**

(d) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten feet to provide such access.

(e) In unsubdivided nonresidential developments that abut a public street, sidewalks shall be constructed adjacent to such street if a sidewalk in that location is required by the officially adopted town sidewalk master plan. Whenever possible, such sidewalk shall be constructed within the public right-of-way.

(f) The sidewalks required by this section shall be at least five feet wide, except that, where practicable, the sidewalks in the B-1(c), B-1(g), B-2, and C-T zoning districts shall be at least ten feet wide. Sidewalks are to be constructed according to the specifications set forth in Appendix C, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that: **(AMENDED 12/08/98; 4/8/03)**

- (1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and
- (2) Such walkways could be more environmentally desirable or more in keeping with the overall design of the development.

Section 15-222 Attention to Handicapped in Street and Sidewalk Construction.

(a) As provided in G.S. 136-44.14, whenever curb and gutter construction is used in public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the N.C. Department of Transportation, Division of Highways.

(b) In unsubdivided developments sidewalk construction for the handicapped shall conform to the requirements of Section (11X) of the North Carolina State Building Code.

*Art. XIV STREET AND SIDEWALKS (con't)***Section 15-223 Street Names and House Numbers.**

(a) Street names shall be assigned by the developer subject to the approval of the permit issuing authority. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the town's planning jurisdiction, regardless of the use of different suffixes [such as those set forth in subsection (b)].

(b) Street names shall include a suffix such as the following:

- (1) Circle: A short street that returns to itself.
- (2) Court or Place: A cul-de-sac or dead-end street.
- (3) Loop: A street that begins at the intersection with one street and circles back to end at another intersection with the same street.
- (4) Street: All public streets not designated by another suffix.

(c) Building numbers shall be assigned by the town as provided in Section 7-32 of the Town Code.

Section 15-224 Bridges.

All bridges in subdivided and unsubdivided developments shall be constructed in accordance with the standards and specifications of the N.C. Department of Transportation, except that bridges on roads not intended for public dedication in unsubdivided developments may be approved if designed by a licensed architect or engineer.

Section 15-225 Utilities.

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in Article XV, Utilities.

Section 15-226 Road Standards in the University Lake Watershed.

Notwithstanding any provision in this ordinance to the contrary, roads in the University Lake Watershed shall not be constructed with curb and gutter. (AMENDED 11/11/86)

Section 15-227 through 15-235 Reserved.

ARTICLE XV

WATER AND WASTEWATER, OUTDOOR LIGHTING, AND MISCELLANEOUS UTILITIES (REWRITTEN 4/20/10)

PART 1. WATER AND WASTEWATER

Section 15-236 Utility Ownership and Easement Rights.

In any case in which a developer installs or causes the installation of water, sewer, electric power, telephone, fiber optic cable or conduit, or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

Section 15-237 Lots Served by OWASA-Owned Water and Sewer Lines.

(a) Subject to subsection (d), whenever it is legally possible and practicable in terms of topography to connect a lot with a water or sewer line owned by the Orange Water and Sewer Authority (OWASA) by running a connecting line not more than the distance specified in subdivision (1) below from the lot to the point of connection, then no use requiring water or sewage disposal service may be made of such lot unless connection is made to the OWASA line.
(AMENDED 2/24/87)

- (1) If the tract in question is proposed to be developed for residential purposes, then the distance within which connection must be made shall be 200 feet plus 10 feet for each unit in excess of 4 units on the development tract. If the tract in question is proposed to be developed for nonresidential purposes, then the distance within which connection must be made shall be determined by transposing the projected demand of the proposed non-residential use into the demand created by an equivalent number of average residential units and using the foregoing formula.
- (2) In determining units in a development, tracts proposed to be subdivided and not using architecturally integrated subdivisions shall have their total unit potential determined by calculating the maximum number of units allowable for each proposed lot. The total number of units proposed on other developments shall be shown on the proposed site plan.

(b) Connection to the OWASA line is not legally possible if, in order to make connection with the OWASA line by a connecting line that does not exceed a distance

Art. XV Utilities (cont.)

determined in accordance with subsection (a), it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.

(c) For purposes of this article, a lot is “served” by the OWASA system if the lot is connected to that system or if connection is required by this section.

(d) This section shall not operate either to require or prevent the extension of water or sewer lines to lots within the WR, C, B-5, or WM-3 zoning districts. **(AMENDED 05/15/90)**

Section 15-238 Sewage Disposal Facilities Required.

(a) Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot, and that complies with all applicable health regulations.

(b) Notwithstanding any other provisions of this article, no sewage treatment system other than individual on-site septic systems or individual on site alternative disposal systems approved by the Orange County Health Department or the appropriate state or federal agency and serving a single unit shall be allowed within the WR, C, B-5, and WM-3 zoning districts, except that any lots in the Rangewood Subdivision that were benefited by OWASA’s previous water and sewer extension project and which appear on OWASA’s final assessment role for that project may be connected to OWASA’s water and/or sewer lines as long as all assessments, fees, and charges have been paid or are up-to-date. **(AMENDED 09/01/92)**

(c) Notwithstanding any other provisions of this article, no sewage collection system shall be allowed within the WR, C, B-5, and WM-3 zoning districts except to remedy a public health emergency not otherwise correctable such as (but not limited to) a failing septic system or failing package treatment plant as determined by the Orange County Health Department or appropriate state or federal agency. **(AMENDED 5/3/88; 6/23/88; 5/15/90)**

Section 15-239 Determining Compliance With Section 15-238.

(a) Primary responsibility for determining whether a proposed development will comply with the standard set forth in Section 15-238 often lies with an agency other than the town, and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b). Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing a permit under this chapter may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage disposal system to determine compliance with Section 15-238. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the column on the left describes the type of development and the column on the right indicates the agency that must certify to the town whether the proposed sewage disposal system complies with the standards set forth in Section 15-238.

Art. XV Utilities (cont.)

IF	THEN
1. The use is located on a lot that is served by the OWASA sewer system or a previously approved, privately owned packaged treatment plant, and the use can be served by a simple connection to the system (as in the case of the single-family residence) rather than the construction of an internal collection system (as in the case of a shopping center or apartment complex)	No further certification is necessary
2. The use (other than a subdivision) is located on a lot that is served by the OWASA sewer system but service to the use necessitates construction of an internal collection system (as in the case of a shopping center or apartment complex); and	
a. The internal collection system is to be transferred to and maintained by OWASA;	OWASA must certify to the Town that the proposed internal collection system meets OWASA's specifications and will be accepted by OWASA. (A "Permit to Construct" must be obtained from the Division of Environmental Management of the NC Department of <u>Environmental Quality (DEQ)</u> Natural Resources and Community Development.)
b. The internal collection system is to be privately maintained.	The public works director must certify that the proposed collection system is adequate.
3. The use (other than a subdivision) is not served by the OWASA system but is to be served by a privately operated sewage treatment system (that has not previously been approved) with 3000 gallons per day or less design capacity, the effluent from which does not discharge to surface waters.	The Orange County Health Department (OCHD) must certify to the Town that the proposed system complies with all applicable State and local health regulations. If the proposed use is a single dwelling other than a mobile home, the developer must obtain an improvements permit from the OCHD. If the proposed use is a single family mobile home, the developer must present to the Town a certificate of completion from the OCHD.

Art. XV Utilities (cont.)

4. The use (other than a subdivision is to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity of more than 3000 gallons per day or that discharges effluent into surface waters.	The Division of Environmental Management of the NC Department of <u>Environmental Quality (DEQ)</u> Natural Resources and Community Development must certify to the Town that the proposed system complies with all applicable State regulations, (A “Permit to Construct” and a “Permit to Discharge” must be obtained from DEM.)
5. The proposed use is a subdivision; and	
a. Lots within the subdivision are to be served by simple connection into existing OWASA lines or lines of a previously approved private system;	No further certification is necessary
b. Lots within the subdivision are to be served by the OWASA system but the developer will be responsible for installing the necessary additions to the OWASA system;	OWASA must certify to the Town that the pro-posed system meets OWASA’s specifications and will be accepted by OWASA. (A “Permit to Construct” must be obtained from the Division of Environmental Management of the NC Department of <u>Environmental Quality (DEQ)</u> Department of Natural Resources and Community Development .)
c. Lots within the subdivision are to be served by a sewage treatment system that has not been approved, that has a design capacity of 3000 gallons per day or less, and that does not discharge into surface waters;	The OCHD must certify that the proposed system complies with all applicable State and local health regulations. If each lot within the subdivision is to be served by separate on-site disposal system, the OCHD must certify that each lots shown on a major subdivision preliminary plat can probably be served, and each lot on a major or minor subdivision final plat can be served by an on-site disposal system.
d. Lots within the subdivision are to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity in excess of 3000 gallons per day or that discharges effluent into surface waters.	The Division of Environmental Management of the NC Department of <u>Environmental Quality (DEQ)</u> Natural Resources and Community Development must certify that the proposed system complies with all applicable State regulations. (A “Permit to Construct” and a “Permit to Discharge” must be obtained from DE <u>QM</u> .)

Art. XV Utilities (cont.)

(c) Any certification by OWASA pursuant to (b)2.a. or (b)5.b. of this section shall identify on appropriate project plans, the locations of all easements which OWASA will require from the developer. **(AMENDED 5/3/88)**

Section 15-240 Water Supply System Required.

Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision lot and that complies with all applicable health regulations.

Section 15-241 Determining Compliance with Section 15-240.

(a) Primary responsibility for determining whether a proposed development will comply with standards set forth in Section 15-240 often lies with an agency other than the town and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b). Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this chapter may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance with Section 15-240. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the column on the left describes the type of development and the column on the right indicates the agency that must certify to the town whether the proposed water supply system complies with the standards set forth in section 15-240.

Art. XV Utilities (cont.)

IF	THEN
<p>1. The use is located on a lot that is sServed by the OWASA water system or a previously approved, privately owned public water supply system and the use can be served by a simple connection to the system (as in the case of a single family residence) rather than the construction of an internal distribution system (as in the case of shopping center of apartment complex).</p>	<p>No further certification is necessary</p>
<p>2. The use (other than a subdivision) is located on a lot that is served by the OWASA water system but service to The use necessitates construction of an internal distribution system (as in the case of a shopping center or apartment complex); and</p>	
<p>a. The internal distribution system is to be transferred to and maintained by OWASA;</p>	<p>OWASA must certify to the Town that the proposed internal distribution system meets OWASA's specifications and will be accepted by OWASA. (A "Permit to Construct" must be obtained from the Division of <u>Public Health Services</u> of the NC Department of <u>Health and Human Services</u> Resources.)</p>
<p>b. The internal distribution system is to be privately maintained.</p>	<p>The public works director must certify that the proposed distribution system is adequate.</p>
<p>3. The use (other than a subdivision) is located on a lot not served by the</p>	

Art. XV Utilities (cont.)

<ul style="list-style-type: none"> - OWASA system or a previously - approved, privately owned public - water supply system; and 	
<p>a. The use is to be served by a privately owned public water supply that has not previously been approved.</p>	<p>The Division of Public Health Services of the NC Department of Health and Human ServicesResources must certify that the proposed system complies with all applicable State and federal regulations. (A “Permit to Construct” must be obtained from DHHS.) The Division of Environmental Management of the NC Department of Environmental Quality (DEQ)Natural Resources and Community Development must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located in certain areas designated by DEQM. OWASA must also approve the distribution lines for possible future addition to the OWASA system.</p>
<p>b. The use is to be served by some other source (such as an individual well).</p>	<p>The OCHD must certify that the proposed system meets all applicable State and local regulations.</p>
<p>4. The proposed use is a subdivision; and</p>	
<p>_ a. Lots within the subdivision are to be — served by simple connection — to — existing OWASA lines or — lines of a — previously approved — public water — supply system;</p>	<p>No further certification is necessary.</p>
<p>_ b. Lots within the subdivision are to be — served by the OWASA system, — developer will be responsible for — installing the necessary additions — to — the OWASA system;</p>	<p>OWASA must certify to the Town that the proposed system meets OWASA’s specifications and will be accepted by OWASA. (A “Permit to Construct” must be obtained from the Division of Health Services of the NC Department of Human Resources.</p>
<p>_ c. Lots within the subdivision are _ serve by a privately owned public _ water supply system that has not _ previously been approved.</p>	<p>The Division of Health Services of the NC Department Human Resources must certify that the proposed system complies with all applicable State and federal regulations. (A</p>

Art. XV Utilities (cont.)

	“Permit to Construct” must be obtained from DHS.) The Division of Environmental Management of the NC Department of Natural Resources and Community Development must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located within certain areas designated by DEM. OWASA must also approve the distribution lines for possible future addition to the OWASA system.
<p>d. Lots within the subdivision are to be served by individual wells.</p>	The OCHD must certify to the Town that each lot intended to be served by a well can be served in accordance with applicable health regulations.

PART II. OUTDOOR LIGHTING

Section 15-242 Purpose and Intent (AMENDED 4/20/10)

(a) The ~~Town Council~~**Board** finds that outdoor lighting serves a number of beneficial purposes. For work or recreation, it enables people to see essential detail in order that they may undertake their activities at night. It facilitates the safety and security of persons and property, for example through lighting on roads and pathways and the entrances to buildings. It may be used to emphasize features of architectural or historical significance, and to light parks and gardens. It is used for advertising or display to promote products or services, or to call attention to commercial premises by means of area lighting or signs. However, excessive or inappropriately directed lighting may create unwanted glare, interfere with observation of the nighttime sky, waste valuable energy supply, and otherwise interfere with the use or enjoyment of adjoining or nearby public or private property.

(b) It is the intent of this part to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems by providing for the installation of individual fixtures and lighting systems that are designed and installed to maintain safety, security and productivity, and to curtail the degradation of the nighttime visual environment.

Section 15-242.1 Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this part.

- (1) Direct Light: Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.
- (2) Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.
- (3) Floodlight: A form of lighting designated to direct its output more or less in a specific direction.
- (4) Footcandle: (fc) The total amount of light or illuminance cast on a surface and equivalent to the light produced by a source of one (1) candle measured at a distance of one (1) foot
- (5) Full cut-off luminaires: A luminaire designed and installed where no light is emitted at or above a horizontal plane running through the lowest point on the luminaire.
- (6) Fully Shielded: Outdoor light fixtures with opaque top and sides, capable of only emitting light in the lower photometric hemisphere as installed.

Art. XV Utilities (cont.)

- (7) Glare: Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, or cause annoyance and discomfort, and, in extreme cases, causing momentary blindness.
- (8) IESNA: Illuminating Engineering Society of North America, a non-profit society of professional lighting specialists that has developed a series of recommended standards for a variety of lighting applications.
- (9) Lamp: The component of the luminaire that produces the light and commonly referred to as the "bulb."
- (10) Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
- (11) Lumen: The unit used to quantify the amount of light energy produced by a lamp at the lamp. Lumen output of most lamps is listed on the packaging. For example, a 60-watt incandescent lamp produces 950 lumens while a 55-watt low-pressure sodium lamp produces 8000 lumens.
- (12) Luminaire: A complete lighting system that includes light source and all necessary mechanical, electrical, and decorative parts.
- (13) Maintained Foot Candle: Illuminance of lighting fixtures adjusted for dirt buildup and lamp output depreciation.
- (14) Wall Pack: A type of light fixture typically flush-mounted on a vertical wall surface.

Section 15-242.2 Applicability

(a) The provisions of this part apply to developments for which permits are issued after the effective date of this part; therefore developments that exist on the effective date of this part that do not comply with its provisions shall not be regarded as nonconforming. However, when new luminaries are installed or existing luminaries are replaced, they shall comply with this part.

(b) Notwithstanding the provisions of subsection (a) of this section, luminaires installed prior to the effective date of this part that violate the following provisions shall be brought into compliance or removed within three months after the date of notification of the violation: Section 15-242.5 (d).

(c) Regulations applicable to the lighting of signs are found in Article XVII of this chapter, particularly Section 15-281.

(d) The provisions of this part do not apply to:

Art. XV Utilities (cont.)

- (1) Streetlights installed on public streets.
- (2) Traffic control signals and devices.
- (3) Temporary emergency lighting (i.e. fire, police, repair workers, etc.).
- (4) Moving vehicle lights.
- (5) Navigation lights (i.e. airports, heliports, radio/television towers, etc.).
- (6) Seasonal decorations with individual lights in place no longer than 60 consecutive days.
- (7) Security lights that are controlled by a motion-sensor switch that does not allow the lights to remain on longer than 12 minutes after activation, so long as the lamps do not exceed 150 watts and 2,200 lumens.

Section 15-242.3 Minimum Lighting Requirements for Security

(a) All streets, sidewalks, and other common areas or facilities in subdivisions shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

(b) All roads, driveways, sidewalks, parking lots, and other common areas or facilities in unsubdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, and other common areas or facilities.

(c) All entrances and exits in buildings used for non-residential purposes and in multi-family residential dwellings containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of such buildings.

Section 15-242.4 Subdivisions

(a) With respect to street lighting for subdivision streets that (i) are located on property within the town at or about the time of final plat approval, and (ii) are intended to be dedicated to the town, the developer shall coordinate with the electric utility company to ensure that all facilities necessary for the installation of street lights in accordance with the town's street lighting policy are put in place. "As a condition of construction plan approval, all public street lighting is to be installed by the developer prior to street acceptance by the town. The developer shall be responsible for all installation cost and monthly billing until the public streets are accepted onto the town's street maintenance system."

(b) With respect to street lighting for subdivision streets that (i) are located on property that is not within the town at or about the time of final plat approval, and (ii) are intended to be dedicated to the public (i.e. to the N.C. Department of Transportation initially and eventually to the town when the subdivision is annexed), the developer shall coordinate with the electric utility

Art. XV Utilities (cont.)

company to see that all facilities necessary for the installation of street lights in accordance with the town's street lighting policy are put in place. The installation of street lights that are consistent with town policies may then be provided for either by an arrangement between the developer or a property owners association and the electric utility company until such time as the subdivision is annexed.

(c) With respect to street lighting for subdivision streets that are not intended to be dedicated to the town, the developer shall provide for the installation and maintenance (either by the developer or a successor property owners association) of a street lighting system that will provide sufficient lighting for safety and security purposes.

Section 15-242.5 General Standards (AMENDED 10/23/2018)

(a) Unless otherwise specified, under no circumstances may the light level at a lot line exceed .2 foot candles. A limitation of 2.0 footcandles shall generally apply to lot lines in the B-1(c) and B-1(g) zoning districts. However, a limitation of .2 footcandles shall apply to lot lines of properties zoned B-1(c) or B-1(g) under any of the following circumstances:

- (1) Where such lot lines separate properties zoned B-1(c) or B-1(g) from properties zoned residential;
- (2) If and to the extent that properties zoned residential lie directly across a street from the lot lines of properties zoned B-1(c) or B-1(g);
- (3) Where such lot lines separate properties zoned B-1(c) or B-1(g) from properties that are not zoned residential but that are used for residential purposes and were so used on the effective date of this subsection;
- (4) If and to the extent that properties that are not zoned residential but are used for residential purposes and were so used on the effective date of this subsection lie directly across a street from the lot lines of properties zoned B-1(c) or B-1(g).

(b) Notwithstanding the foregoing, the permit-issuing authority may allow or require deviations from the lot line foot candle limitations described in Subsection 15-242.5(a), along public rights-of-way, where such rights-of-way are located within a unified commercial or mixed-use development operating under a single ~~class A special conditional~~ use permit. The right-of-way must extend through the development, not along the perimeter, and it must be dedicated to the Town.

(c) Vegetative buffers shall not be used to satisfy the standards set forth in subsection (a) of this section.

(d) Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens shall be fully shielded and shall be located to prevent glare and light trespass beyond the property boundary (including onto adjacent streets).

Art. XV Utilities (cont.)

(e) The recommended maximum light output is 70,000 lumens per acre for lots developed for commercial or multi-family purposes and 6,500 lumens per acre for lots developed for all other purposes. This recommended maximum does not apply to those uses regulated by Sections 15-242.6, 15-242.7, and 15-242.8.

(f) Floodlights with external shielding shall be angled provided that no light is directed above a twenty-five (25) degree angle measured from the vertical line from the center of the light extended to the ground, and only if the luminaire does not cause glare or light to shine on adjacent property or public or private rights-of-way. Photocells with timers that allow a floodlight to go on at dusk and off by 11:00 p.m are encouraged.

(g) The presumptive standard for the maximum height of light poles is fifteen (15) feet in height. The ~~Council~~ **Board** recognizes that due to the particularities of any given development, the inflexible application of a height maximum for lighting fixtures may result in a development with excessive energy consumption or light fixtures that are incompatible with the scale or style of a development. These situations can result in a waste of money that could more desirably be used for valuable development amenities or environmentally useful features. Therefore, the permit-issuing authority may permit deviations from the presumptive requirements and may require shorter light fixtures or allow taller light fixtures whenever it finds that such deviations are more likely to satisfy the standard set forth in subsections 15-242 (a) and (b) and that the lighting complies in all other respects with the requirements of this part.

(1) Without limiting the generality of the foregoing, the permit-issuing authority may allow or require deviations from the light fixture height maximum set forth in Subsection 15-242.5 (f) when it finds that:

- a. An existing multi-family residential development of greater than four (4) units is seeking to improve security and safety for residents by increasing the number of light fixtures and is also seeking to utilize light fixtures that are similar in size and style to existing fixtures; or
- b. Lighting fixtures on neighboring property are substantially lower in height than the maximum that would be allowed and taller light fixtures would result in a discernible negative impact in terms of excessive illumination and glare.

(2) Whenever the permit-issuing authority allows or requires a deviation from the presumptive lighting fixture height requirements set forth in Subsection 15-242.5(e) it shall enter on the face of the permit the lighting fixture height requirement that it imposes and the reasons for allowing or requiring the deviation.

(g) All wall packs shall be fully shielded.

Art. XV Utilities (cont.)

(h) All luminaires shall be shielded or oriented in such a way as to direct light toward the earth's surface and away from reflective surfaces.

(i) Luminaires designed to illuminate building facades, architectural features, or landscaping shall be oriented and shielded so that direct illumination is focused exclusively on such building façade, architectural feature, or landscaping and away from adjoining properties, public or private way, and the night sky.

(j) Upward flagpole lighting is permitted for governmental flags, either publicly or privately owned, provided that the maximum lumen output is 1,300 lumens. It is encouraged that flags be taken down at sunset to avoid the need for lighting.

(k) Any luminaire must be installed in such a manner that the light emitting source is not visible from any residence not located on the same lot as the luminaire or from any public street.

Section 15-242.6 Vehicular Canopies

(a) The light level beneath vehicular canopies (e.g. for gas stations or convenience stores) shall not exceed 10 foot candles average maintained at the perimeter of the canopy and measured at ground level. Acceptable ways of achieving this objective include, but are not limited to, one or more of the following:

- (1) Recessed fixtures incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy.
- (2) Surface mounted fixtures incorporating a flat glass that provides a full cut-off or fully shielded light distribution.
- (3) Indirect lighting where light is beamed upward and then reflected down from the underside of the vehicular canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the vehicular canopy.
- (4) Any other method approved by the permit issuing authority that achieves an effect similar to the foregoing illustrations.

(b) During hours when the business is not open, the lighting level shall be reduced to security lighting only.

Section 15-242.7 Outdoor Display Areas

(a) All display area lighting shall utilize fully shielded luminaires that are installed in a fashion that maintains the fully shielded characteristics.

Art. XV Utilities (cont.)

(b) Display area lighting shall be installed such that glare is not visible from residential properties.

(c) The display area shall not be illuminated in a manner that exceeds the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA Rp-33, or as updated).

(d) For purposes of this section, an “outdoor display area” is an outdoor area where nighttime sales activity regularly occurs and where accurate color perception of merchandise by customers is required. Examples include sales areas for automobiles, boats, building supplies, or plants.

(e) During hours when the business is not open, the lighting level shall be reduced to security lighting only.

Section 15-242.8 Outdoor Sports Fields and Performance Areas

(a) The mounting height of outdoor sports fields and outdoor performance area lighting fixtures shall not exceed 60 feet from finished grade unless approved by the permit-issuing authority after receipt of substantial information justifying the need for additional height.

(b) All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.

(c) Outdoor sports field and performance area lighting systems shall not be operated between the hours of eleven p.m. and sunrise.

Section 15-242.9 Prohibited Uses of Light

The following are prohibited:

- (1) The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizon;
- (2) The operation of searchlights for advertising purposes;
- (3) Use of mercury vapor luminaires.

Section 15-242.10 Light Measurement Techniques

a) Light measurements shall be made at finished grade (ground level), with the light-registered portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the year.

Art. XV Utilities (cont.)

Light levels are specified, calculated and measured in footcandles (FC). All FC values are maintained footcandles unless otherwise specified.

b) Compliance with an approved light plan associated with a permit can be verified in the field by confirming that the light fixtures and bulbs do not exceed those shown on the engineered plans. When there is no approved light plan then compliance can be verified by enforcing that the light source is blocked and/or directed in compliance with this Part or by the owner obtaining and providing a professional engineer's certification that verifies that the existing conditions comply with the ordinance.

Section 15-243 RESERVED (AMENDED 4/20/10)

PART III: MISCELLANEOUS UTILITIES (AMENDED 4/20/10)**Section 15-244 Electric Power.**

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (1) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is needed.
- (2) If the use is a subdivision or is not located on a lot served by an existing power line, or a substantial internal distribution system will be necessary, then the electric utility company must review the proposed plans and certify to the town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 15-245 Telephone Service.

Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

- (1) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is necessary.
- (2) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the electric utility company must review the proposed plans and certify to the town that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 15-246 Underground Utilities.

(a) All electric power lines, (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters or capacitors which may be pad mounted), telephone, gas distribution, fiber optic cable or conduit, and cable television lines in subdivisions developed after the effective date of this chapter shall be placed underground in accordance with the specifications and policies of the respective utility companies and located in accordance with Appendix C, Standard Drawing No. 6 or No. 7.

Art. XV Utilities (cont.)

(b) Whenever an unsubdivided development is hereafter constructed on a lot that is undeveloped on the effective date of this chapter, then all electric power, telephone, gas distribution, and cable television lines installed to serve the development site outside of a previously existing public street right-of-way shall be placed underground in accordance with the specifications and policies of the respective utility companies. **(AMENDED 1/22/85)**

(c) Notwithstanding the foregoing, a developer or builder is not required to bury power lines meeting all of the following criteria:

- (1) The power lines existed above ground at the time of first approval of a plat or development plan, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- (2) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

Section 15-247 Utilities To Be Consistent With Internal and External Development.

(a) Whenever it can reasonably be anticipated that utility facilities constructed in one development will be extended to serve other adjacent or nearby development, such utility facilities (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

(b) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

Section 15-248 As-Built Drawings Required.

(a) Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, furnish the town with a copy of a drawing that shows the exact location of such utility lines. Such drawings must be certified as accurate by the utility company. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

(b) If any utility in any right-of-way is installed by a utility company, the company shall maintain accurate as-built drawings and shall make these available to the town upon request.

Section 15-249 Fire Hydrants.

(a) Every development, subdivided or unsubdivided, that is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development. **(AMENDED 4/27/82)**

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(b) The presumption established by this ordinance is that to satisfy the standard set forth in subsection (a), fire hydrants must be located so that every building within the development is not more than 500 feet from a hydrant. However, the fire chief may authorize or require a deviation from this standard if, in his professional opinion, another arrangement more satisfactorily complies with the standard set forth in subsection (a).

(c) The fire chief shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet behind the curb line of publicly dedicated streets that have curb and gutter.

(d) All hydrants shall have two 2½ inch hose connections and one 4½ inch hose connection. The 2½ inch hose connection shall be located at least 21½ inches from the ground level. All hydrant threads shall be national standard threads.

(e) Water lines that serve hydrants shall be at least six inch lines, and unless no other practicable alternative is available, no such lines shall be dead-end lines.

(f) When hydrants are required under this section to be located within a public street right-of-way, the installation of such hydrants by the developer shall constitute an offer of dedication of such hydrant to OWASA, and the town and OWASA shall thereafter deal with such hydrant in the same manner as other hydrants located within public rights-of-way within the town. The developer or his successor shall be responsible for ensuring that such hydrant is properly maintained and kept in good working order, and that any costs associated with providing water to such hydrant are paid so that the hydrant can at all times serve its intended function. The developer or his successor may arrange with OWASA or any other entity to have such hydrants properly maintained, but ultimate responsibility for compliance with this section remains on the developer or his successor. **(AMENDED 5/10/83)**

(g) Fire hydrants required under this section shall be installed and in working condition, subject to OWASA approval, prior to framing of any buildings in each phase. **(AMENDED 11/26/85)**

Section 15-250 Screening of Dumpsters (AMENDED 5/26/81)

(a) Every development that, under Chapter 11 of the Town Code, is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

- (1) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way; and
- (2) Constructed according to specifications established by the public works director to allow for collection without damage to the development site or the collection vehicle.

Art. XV Utilities (cont.)

(b) All such dumpsters shall be screened if and to the extent that, in the absence of screening, they would be clearly visible to:

- (1) Persons located within any dwelling unit on residential property other than that where the dumpster is located.
- (2) Occupants, customers, or other invitees located within any building on non-residential property other than that where the dumpster is located, unless such other property is used primarily for purposes permitted exclusively in an M-1 or M-2 zoning district.
- (3) Persons traveling on any public street, sidewalk, or bikeway within the Town of Carrboro.

(c) When dumpster screening is required under this section, such screening shall be constructed, installed, and located to prevent or remedy the conditions requiring the screening.

ARTICLE XVI

FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION

PART I. FLOOD DAMAGE PREVENTION (REWRITTEN) 1/16/07)

Section 15-251 Purpose and Objective.

(a) It is the purpose of this part to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(b) The objectives of this part are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business losses and interruptions;
- (5) To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) To minimize damage to private and public property due to flooding;

- (7) To make flood insurance available to the community through the National Flood Prevention Program;
- (8) To maintain the natural and beneficial functions of floodplains;
- (9) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area. **(AMENDED 09/26/17)**

Section 15-251.1 Definitions (REWRITTEN 09/26/17)

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

1. Accessory Structure (Appurtenant Structure). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.
2. Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.
3. Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
4. Appeal. A request for a review of the administrator's interpretation of any provision of this ordinance.
5. Area of Special Flood Hazard. See "Special Flood Hazard Area (SFHA)"
6. Basement. Any area of the building having its floor subgrade (below ground level) on all sides.
7. Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.
8. Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study or, for areas not covered in the Flood Insurance Study, as may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard," establishes the "Regulatory Flood Protection Elevation."
9. Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
10. Design Flood. See "Regulatory Flood Protection Elevation."

11. Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
12. Development Activity. Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
13. Development Permit. A zoning, class A or class B special use, ~~conditional use~~, or sign permit required under the provisions of Article IV of this chapter.
14. Digital Flood Insurance Rate Map (DFIRM). The digital official map of the Town, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
15. Disposal. As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
16. Elevated Building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
17. Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
18. Existing Building and Existing Structure. Any building and/or structure for which the “start of construction” commenced before the date the Town’s first floodplain management ordinance was adopted.
19. Existing Manufactured Home Park or Manufactured Home Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the town.
20. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) the overflow of inland waters; and/or
 - (b) the unusual and rapid accumulation of runoff of surface waters from any source.
21. Flood Insurance. The insurance coverage provided under the National Flood Insurance Program.

22. Flood Insurance Rate Map (FIRM). An official map provided to the town by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
23. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data provided to the town by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.
24. Flood Prone Area. See Floodplain.
25. Floodplain. Any land area susceptible to being inundated by water from any source.
26. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
27. Floodplain Management Regulations. This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
28. Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
29. Flood-resistant Material. Any building product, material, component, or system capable of withstanding direct and prolonged contact (minimum of 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.
30. Floodway. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
31. Floodway Encroachment Analysis. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge.

The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

32. Flood Zone. Means a geographical area shown on a Flood Hazard Boundary map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
33. Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation”. The freeboard shall be two feet.
34. Functionally Dependent Facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
35. Hazardous Waste Facility. As defined in NCGS 130A-290(a)(9), a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
36. Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
37. Historic Structure. Any structure that is:
 - (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; or
 - (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
 - (c) certified as contributing to the historical significance of any historic district that may be designated by the town.
38. Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
 - (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the based flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
 - (c) Letter of Map Revision based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
 - (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
39. Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:
- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or
 - (b) Designed primarily for the transportation of persons and has a capacity of more than 12 persons; or
 - (c) Available with special features enabling off-street or off-highway operation and use.
40. Lowest Adjacent Grade (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
41. Lowest Floor. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
42. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle."
43. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
44. Market Value. The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by

independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

45. New Construction. Structures for which the “Start of Construction” commenced on or after April 22, 1975 and includes any subsequent improvements to such structures.
46. Non-Encroachment Area. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
47. Post-FIRM. Means construction or other development for which the “Start of Construction” occurred on or after April 22, 1975.
48. Pre-FIRM. Construction or other development for which the “Start of Construction” occurred before April 22, 1975.
49. Principally Above Ground. At least 51% of the actual cash value of the structure is above ground.
50. Public Safety Hazard and/or Nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.
51. Recreational Vehicle (RV). A vehicle, which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and (v) is fully licensed and ready for highway use.
52. Reference Level. The top of the lowest floor for structures within the Special Flood Hazard Area designated as Zone AE.
53. Regulatory Flood Protection Elevation. The “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard.
54. Remedy a Violation means to bring the structure or other development into compliance with State and community floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the

structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

55. Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
56. Salvage Yard. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
57. Solid Waste. Solid waste as defined in NCGS 130A-290(a) (35).
58. Solid Waste Management Facility. As defined in NCGS 130A-290(a) (35), any facility involved in the disposal of solid waste.
59. Solid Waste Disposal Site. As defined in NCGS 130A-290(a) (36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
60. Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Section 15-251.2(b) of this part.
61. Start of Construction. This term includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
62. Structure. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
63. Substantial Damage. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its ~~s-s~~ before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "Substantial Improvement."

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64. Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Substantial Damage," regardless of the actual repair work performed. The term does not, however, include either: (i) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
65. Technical Bulletin and Technical Fact Sheet. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.
66. Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.
67. Variance. A grant of relief from the requirements of this ordinance as authorized in Section 15-92 of this chapter. See also Section 15-251.5.
68. Violation. The failure of a structure or other development to be fully compliant with the provisions of this part. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this part is presumed to be in violation until such time as that documentation is provided.
69. Water Surface Elevation (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.
70. Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically.

Section 15-251.2 General Provisions.

(a) This part shall apply to all Special Flood Hazard Areas within the town's planning jurisdiction and joint planning transition area (as those latter terms are defined in Section 15-15), as well as the Town's Extra-Territorial Jurisdiction (ETJ). **(AMENDED 9/26/17)**

(b) The provisions of this part shall apply to the following two types of Special Flood Hazard Areas:

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- (1) Those Special Flood Hazard Areas that are identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Orange County, dated 09/26/2017, which are adopted by reference and declared to be a part of this ordinance. **(AMENDED 09/26/17)**

(c) As set forth in Part I of Article IV of this chapter, no development may take place within Special Flood Hazard Areas unless an appropriate permit has been issued authorizing such development, and no such permit shall be issued unless the proposed development is in full compliance with the provisions of this chapter.

(d) The provisions of this part are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions of this part and the provisions of another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) In the interpretation and application of this part, all provisions shall be considered as minimum requirements, liberally construed in favor of the town, and deemed neither to limit nor repeal any other powers granted under State statutes.

(f) The degree of flood protection required by this part is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(g) A violation of the provisions of this part shall subject the violator to the penalties and remedies set forth in Article VII of this chapter. Additionally, violations of the provisions of this part or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances or special exceptions, shall constitute a Class 1 Misdemeanor pursuant to N.C.G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation. **(REWRITTEN 09/26/17)**

Section 15-251.3 Application Requirements

As provided in Section 15-46, no development may occur without a development permit, and no such permit shall be issued unless the administrator determines, based upon the plans and information submitted, that the development will comply with all the provisions of this chapter, including those applicable to development within Special Flood Hazard Areas. Appendix A to this chapter sets forth requirements related to the information that must generally be submitted with a permit application in order to demonstrate compliance with the requirements of this chapter.

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However, when the lot or tract with respect to which a development permit is sought contains a SFHA, the following information shall also be submitted to the administrator:

- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b. The boundary of the Special Flood Hazard or a statement that the entire lot is within the Special Flood Hazard Area;
 - c. Flood zone(s) designation of the proposed development area as determined on the Flood Insurance Rate Map;
 - d. The boundary of the floodway(s) or non-encroachment area(s);
 - e. Base Flood Elevation (BFE) information;
 - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development and any changes in Special Flood Hazard Areas that occur as a consequence of such changes.
- (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to: **(REWITTEN 09/26/17)**
 - a. Elevation in relation to North American Vertical Datum (NAVD) 1988 of the proposed reference level (including basement) of all structures;
 - b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE will be flood-proofed; and
 - c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (3) If floodproofing, a Floodproofing Certificate (*FEMA Form 81-65*) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- (4) Plans drawn to scale, shall include details of the proposed construction or development, and must demonstrate, among other things, that the foundation system requirements and other provisions of this ordinance are met. These details include but are not limited to:
 - a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - b. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Subsection 15-251.9(e) (3) when solid foundation perimeter walls are used in Zone AE;
 - c. Usage details of any enclosed areas below the regulatory flood protection elevation.

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- d. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- e. Copies of all other Local, State and Federal permits required prior to development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- f. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on the plot plan) showing the location of the proposed watercourse alteration or relocation and any changes in Special Flood Hazard Areas that occur as a consequence of such changes.

Section 15-251.4 Permit Requirements.

To the extent that a development permit is issued for a lot or tract that includes a SFHA, such permit (including the plans incorporated into the permit) shall contain at least the following information:

- (1) A description of the development to be permitted under the floodplain development permit, (including but not limited to a house, garage, pool, septic, bulkhead, cabana, pier, bridge, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.). **(AMENDED 09/26/17)**
- (2) The location of the Special Flood Hazard Area.
- (3) The regulatory flood protection elevation required for the reference level and all attendant utilities.
- (4) The regulatory flood protection elevation required for the protection of all public utilities.
- (5) All certification submittal requirements with timelines.
- (6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, unless the requirements of Section 15-251.10 of this ordinance have been met. **(AMENDED 09/26/17)**
- (7) The flood openings requirements, if in Zone AE.

Section 15-251.5 Certification Requirements

(a) Elevation certificates or information shall be required for the construction of structures on properties where Special Flood Hazard Areas are located, as set forth in this section.

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- (1) An application for a development permit authorizing the construction of a structure on a lot containing a SFHA shall include information designating the elevation of the reference level in relation to mean sea level and demonstrating that the reference level will be elevated to a level that is consistent with the requirements of Section 15-251.9.
 - (2) Upon completion of the foundation survey, the permit holder shall calculate the elevation of the reference level, in relation to mean sea level, based upon the foundation survey and the approved flooring system and shall certify to the administrator that the reference level will be elevated to a level that is consistent with the requirements of Section 15-251.9.
 - (3) A final as-built Elevation Certificate is required after construction is completed and prior to issuance of a Certificate of Compliance/Occupancy. For construction within a FEMA established Special Flood Hazard Area, FEMA Form 81-31 shall be used. For other construction covered by this subsection (a), the administrator may designate an alternative form. It shall be the duty of the permit holder to submit to the administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (b) Floodproofing Certificate. **(REWRITTEN 09/26/17)**
- (1) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make any required corrections shall be cause to deny a building permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
 - (2) A final Finished Construction Floodproofing Certificate (FEMA form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of

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Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(c) Foundation Certificate. If a manufactured home is placed within Zone AE, and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section 15-253.9(d).

(d) Certificate Exemption. Accessory structures of less than 150 square feet in size, if located within Zone AE, are exempt from the elevation/floodproofing certification requirements specified in subsections (a) and (b) of this section.

(e) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(f) For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall: (i) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made; (ii) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined cost of improvements and repairs, if applicable, to the market value of the building or structure; (iii) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and (iv) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required. **(AMENDED 09/26/17)**

Section 15-251.6 Duties and Responsibilities of the Administrator

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As set forth in Part I of Article IV of this chapter, development permits (including permits for development within Special Flood Hazard Areas), shall not be issued unless the requirements of this chapter have been satisfied. In addition to ~~his or her~~ permit responsibilities, the administrator's responsibilities relating to the administration and enforcement of the provisions of this part shall include but shall not be limited to the following duties:

- (1) Advise permit recipients that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the development permit.
- (2) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (3) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (4) Prevent encroachments into floodways and non-encroachment areas except as authorized under Section 15-251.10.
- (5) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Subsection 15-251.5(a)(3).
- (6) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Subsection 15-251.5(b).
- (7) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Subsection 15-251.5(a) (3).
- (8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 15-251.5 and Subsection 15-251.9(b).
- (9) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation in accordance with the following principles:
 - a. In areas between official cross-sections on the Flood Insurance Rate Maps, SFHA, floodway, and non-encroachment area boundaries shall be determined by scaling distances on these maps.

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- b. The base flood elevation shall in all cases be the controlling factor in locating the outer limits of a SFHA boundary.
 - c. Interpretations of floodway and non-encroachment area boundaries shall be based on the current procedures for interpreting such boundaries in accordance with FEMA guidelines.
 - d. Appeals of the determinations of the administrator under this subsection may be taken to the board of adjustment in accordance with the provisions of Section 15-91 of this chapter.
- (10) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
 - (11) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
 - (12) Make on-site inspections of work in progress. As the work pursuant to a development permit progresses, the administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this chapter and the terms of the permit.
 - (13) Issue stop-work orders as pursuant to Section 15-117 of this chapter.
 - (14) Revoke or recommend the revocation of development permits for violations of the provisions of this part as set forth in Section 15-115.
 - (15) Otherwise enforce the provisions of this part as provided in Article VII of this chapter.
 - (16) Review, provide input, and make recommendations for variance requests.
 - (17) Maintain a current map repository to include, but not limited to, the FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Subsection 15-251.2(b) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs. **(AMENDED 09/26/17)**
 - (18) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

Section 15-251.7 Variance Procedures

Variances from the restrictions of this part may be granted by the board of adjustment in accordance with the provisions of Section 15-92 of this chapter.

Art. XVI. FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION**Section 15-251.8 General Standards for Flood Hazard Reductions**

In all Special Flood Hazard Areas, if and to the extent any development is allowed, the following requirements shall be applicable:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (3) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches. **(REWRITTEN 09/26/17)**
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consisted with the code and requirements for the original structure.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

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- (8) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this article and located totally or partially within the floodway or non-encroachment area, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway or non-encroachment area, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article. **(AMENDED 09/26/17)**
- (9) New solid waste management facilities and sites, hazardous waste facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Subsection 15-251.5(b) of this part.
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. **(AMENDED 8 THRU 13 ON 09/26/17)**

Section 15-251.9 Specific Standards for Flood Hazard Reductions

(a) New structures generally prohibited within SFHAs. Within a Special Flood Hazard Area, no new structure (as defined in this part) may be constructed or located, and no substantial improvement of an existing structure may take place, unless and to the extent that the permit issuing authority for the proposed use determines that, in the absence of an authorization to do so, the owner would be deprived of all reasonable use of the subject property. Notwithstanding the foregoing, manufactured homes that are nonconforming because they are located within a SFHA may be replaced with another manufactured home. If such construction (or replacement of manufactured homes) is authorized, all such construction (or replacement) shall be in conformity with the remaining provisions of this section in addition to those set forth in Section 15-251.8.

(b) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) located within a Special Flood Hazard Area

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or on any lot where a SFHA is located shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

(c) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation as defined by this ordinance. Structures located in the AE Zone may be flood proofed to the regulatory flood protection elevation Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the administrator along with the operational and maintenance plans. **(AMENDED 09/26/17)**

(d) Manufactured homes. Manufactured homes that are located within a SFHA or on a lot where a SFHA is located shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required. Finally, all enclosures or skirting below the lowest floor shall meet the requirements of subsection (e).

(e) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures that are below the lowest floor of buildings located with a SFHA: **(AMENDED 09/26/17)**

- (1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (2) Shall not be temperature controlled or conditioned;
- (3) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (4) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a

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professional engineer or architect or meet or exceed the following minimum design criteria:

- a. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- b. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- d. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- e. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- f. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(f) **Fill/Grading.** (AMENDED 09/26/17)

- (1) Fill is prohibited in the SFHA, consistent with this Ordinance.
- (2) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished, or otherwise converted to habitable space; the Town will have the right to inspect the enclosed area. The Town will conduct annual inspections. This agreement shall be recorded with the Orange County Register of Deeds and shall transfer with the property in perpetuity.
- (3) Release of Restrictive Covenants. If a property which is bound by a non-conversion agreement is modified to remove enclosed area below BFE, then the owner may request release of restrictive covenants after staff inspection and submittal of confirming documentation.

(g) **Additions/Improvements.** With respect to additions and improvements to structures that are nonconforming because they are located within a Special Flood Hazard Area: (AMENDED 09/26/17)

- (1) When the addition or improvement constitutes a substantial improvement as defined in Section 15-251.1, both the existing structure and the addition or improvement must comply with the standards for new construction.

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- (2) When the addition or improvement does not constitute a substantial improvement, the addition or improvement must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(h) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are allowed to be placed within a Special Flood Hazard Area pursuant to the provisions of subsection (a) of this section, the following criteria shall be met: **(AMENDED 09/26/17)**

- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (2) Accessory structures shall not be temperature-controlled;
- (3) Accessory structures shall be designed to have low flood damage potential;
- (4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (5) Accessory structures shall be firmly anchored in accordance with Section 15-251.8;
- (6) All service facilities such as electrical shall be installed in accordance with Section 15-251.8; and
- (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Subsection (e) of this section.
- (8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures.

(i) Tanks. When gas and liquid storage tanks are to be placed within a SFHA, the following criteria shall be met: **(AMENDED 09/26/17)**

- (1) Underground Tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (2) Above-ground Tanks, Elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting

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structures shall meet the foundation requirements of the applicable flood hazard area;

- (3) Above-ground Tanks, Not Elevated. Above-ground tanks that do not meet the elevation requirements of Section (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of the contents in the floodwaters or infiltration of floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (4) Tank Inlets and Vents. Tank inlets, fill openings, outlets, and vents shall be:
 - a. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(j) Subsequent to the effective date of this subsection, no portion of any Special Flood Hazard Area outside of the floodway may be filled in with fill dirt or similar material for the purpose of elevating buildings. Whenever fill is placed within a SFHA for any other permitted purpose, slopes shall be adequately stabilized to withstand the erosive force of the base flood. **(AMENDED 09/26/17)**

(k) Other Development.

- (1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 15-251.10 of this ordinance.
- (2) Retaining walls, sidewalks, and driveways in regulated floodways or NEAs that involve the placement of fill in regulated floodways shall meet the limitations of Section 15-251.10 of this ordinance.
- (3) Roads and watercourse crossings in floodways and NEAs, including roads, bridges, culverts, low-water crossings, and similar means for vehicles and pedestrians to travel from one side of a watercourse to the other, that encroach into regulated floodways shall meet the limitations of Section 15-251.10 of this ordinance. **(AMENDED 09/26/17)**

Section 15-251.10 Floodways and Non-Encroachment Areas

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(a) Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Subsection 15-251.2(b) (1). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The requirements set forth in the remaining provisions of this section, in addition to the standards set forth in Sections 15-251.8 and 15-251.9 shall apply to all development within such areas.

(b) No encroachments, including fill, new construction, substantial improvements or other development shall be permitted within a floodway or non-encroachment area unless: **(AMENDED 11/23/10).**

- (1) The proposed encroachment would not result in any impact to the flood levels during the occurrence of the base flood, as demonstrated by hydrologic and hydraulic analysis performed in accordance with standard engineering practice and presented to the administrator prior to approval of construction plans authorizing such encroachment; or
- (2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. Prior to the issuance of a zoning, class A or class B special, ~~or conditional~~ use permit, the developer must demonstrate to the permit issuing authority, by the submission to the town of the CLOMR study, that it is reasonably likely that a CLOMR will be issued. The CLOMR must be received by the town prior to approval of construction plans authorizing such encroachment.

(b1) When an encroachment within a floodway or non-encroachment area is authorized pursuant to a CLOMR as provided in subsection (b)(2) of this section, then upon completion of the encroachment, the developer must obtain from FEMA a Letter of Map Revision (LOMR) pertaining to such encroachment. If such a LOMR is required for an encroachment, then (i) if the encroachment occurs within a subdivided development, a final plat for the phase of the subdivision where the encroachment occurs shall not be approved until the LOMR has been received by the town, and (ii) if the encroachment occurs within an unsubdivided development, such property may not be used or occupied until the LOMR has been received by the town, except that such occupancy, use, or sale of lots shall be allowed if sufficient security is provided pursuant to Sections 15-53 or 15-60 to ensure that the developer does what is necessary to obtain the LOMR **(AMENDED 11/23/10).**

(c) Any development within a floodway or non-encroachment area that is authorized by this section shall comply with all applicable flood hazard reduction provisions of this part.

(d) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- (1) The anchoring and the elevation standards of Subsection 15-251.9(d); and

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- (2) The no encroachment standard of Subsection 15-251.10(b) (1).

Section 15-251.11 Special Provisions for Subdivisions

(a) An applicant for a class A or class B~~conditional-use permit or~~ special use permit authorizing a major subdivision and an applicant for minor subdivision final plat approval shall be informed by the planning department of the use and construction restrictions contained in this Article if any portion of the land to be subdivided lies within a Special Flood Hazard Area.

(b) A class A or class B~~conditional-use permit or~~ special use permit for a major subdivision may not be issued, and final plat approval for any subdivision may not be granted, if any portion of one or more lots lies within a Special Flood Hazard Area unless it reasonably appears that:

- (1) With respect to each lot that lies wholly or partly within a Special Flood Hazard area, either (i) a building of the type that is consistent with the zoning of the property can practicably be located in accordance with applicable regulations on the portion of such lot that is located outside the SFHA, or (ii) such lot has already been developed, or (iii) such lot is formed as the result of an adjustment of lot lines between lots in existence on the effective date of this section, and such readjustment does not result in a previously developable lot being rendered undevelopable, or (iv) it plainly appears that such lot is intended to be devoted to a permissible use that does not involve the construction of any building (e.g. that such lot is reserved or dedicated for open space purposes).
- (2) Creation of each lot that does not satisfy the criteria set forth in subdivision (1) of this subsection is necessary to avoid depriving the owner of the property of all reasonable use of the tract taken as a whole.

(c) Final plat approval for any subdivision containing land that lies within a Special Flood Hazard Area may not be given unless the plat shows the boundary of the SFHA according to the best information available at the time the final plat is approved and contains in clearly discernible print the following statement: *“Use of land within a special flood hazard area is substantially restricted by Article XVI of Chapter 15 of the Carrboro Town Code.”* If, at the time final plat approval is granted, a Conditional Letter of Map Revision (CLOMR) affecting such subdivision has been approved, or the town is otherwise aware that some action is pending that would likely alter the location of the boundary of the SFHA as it affects such subdivision, then the statement on such plat referenced immediately above shall include a note similar to the following: *“The location of the boundary of the special flood hazard area may be altered by a request for a special flood hazard map revision now pending before the Federal Emergency Management Agency.”*

Section 15-252 through 15-260 Reserved.

PART II. STORM WATER MANAGEMENT

Section 15-261 Natural Drainage System Utilized to Extent Feasible (REWRITTEN 6/27/07) AMENDED 2/21/12) .

(a) To the extent practicable, all development shall conform to the natural contours of the land and natural drainage ways shall remain undisturbed.

(b) To the extent practicable, lot boundaries shall be made to coincide with natural drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such natural drainage ways.

(c) Drainage or filling in of existing ponds, under circumstances where the requirements of Section 15-263 are not applicable, shall only be allowed if the stormwater management benefits of the pond are otherwise provided for through installation of other stormwater management devices or practices deemed suitable by the Administrator. **(AMENDED 2-21/12)**

Section 15-262 Development Must Drain Properly (REWRITTEN 6/27/07)

(a) All development shall be provided with a stormwater management system containing drainage facilities that are adequately designed and constructed to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

- (1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater management plan, or
- (2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

(b) No surface water may be channeled or directed into the OWASA sanitary sewer system.

(c) Whenever practicable, the drainage system of a development shall coordinate with the drainage system or drainage ways on surrounding properties or streets.

(d) Use of drainage swales rather than curb and gutter and storm sewers in subdivisions is provided for in Section 15-216. Private roads and access ways within unsubdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

(e) The minimum design storm frequency for all drainage systems shall be the 10 year storm, except that those facilities crossing streets shall be designed for the 25 year storm.

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(f) Drainage culverts and associated facilities shall be suitably sized to accommodate designated storm frequencies and shall be suitably constructed and installed to insure that the facilities will function adequately and will not deteriorate within an unreasonably short period of time. (AMENDED 04/03/90)

Section 15-263 Management of Stormwater (REWRITTEN 6/26/07; AMENDED 6/24/08; AMENDED 10/28/08; 6/22/10; 11/23/10; REWRITTEN 6/26/12)

(a) The requirements of this section shall apply to developments to the extent provided in this subsection.

- (1) For purposes of this subsection, “impervious surface” means that portion of the development of a lot or tract that is covered by a surface or material that substantially or completely prevents rainwater from reaching and being absorbed into the underlying soil. Impervious surfaces include but are not limited to streets, driveways, sidewalks, parking lots, buildings, and other roofed, paved, or graveled areas. Wooden slatted decks and the water area of swimming pools are considered pervious, as are detention ponds.
- (2) For purposes of this subsection, “net addition of impervious surface” shall be determined by subtracting the total square footage of impervious surface prior to commencement of construction authorized by a development permit from the total square footage of impervious that is proposed to be located on the development site when all construction authorized by the development permit (including all phases thereof) is completed. If the permit issuing authority reasonably concludes that a permit applicant is seeking or has sought separate permits (simultaneously or sequentially) for different components of what is demonstrably intended to be a single development in an attempt to stay below the impervious surface threshold that triggers the requirements set forth in this section, then the permit issuing authority shall treat such multiple applications as a single application for purposes of determining whether the requirements of this section are applicable.
- (3) All unsubdivided developments that involve a net addition of more than 5,000 square feet of impervious surface shall be subject to the requirements of this section, except that these requirements shall not apply if the total of the net addition of impervious surface area plus the previously existing impervious surface area on the lot does not exceed (i) six percent (6%) of the lot area within a B-5 or WM-3 zoning district, or (ii) for lots in all other zoning districts, the amount of impervious surface area permissible on lots within the C or WR zoning districts under subsection 15-266(b) of this part.
- (4) When land is subdivided, and the permit authorizing the subdivision does not itself authorize the net addition of more than 5,000 square feet of impervious surface to the tract to be subdivided, then the requirements of this section shall not be applicable to the subdivision. The applicability of the requirements of this section to each of the individual lots so created shall then be determined as development permits are issued for each such lot.

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- (5) When land is subdivided, and the permit authorizing the subdivision itself authorizes the net addition of more than 5,000 square feet of impervious surface to the tract to be subdivided (regardless of whether such impervious surface consists of a road or other facilities external to the lots so created, or buildings, parking lots, and other facilities constructed within the lots so created, or a combination of the two), then the subdivision shall comply with the requirements of this section. Furthermore, the stormwater management system that is installed to comply with the provisions of this section shall be required to take into account all the stormwater reasonably expected to be generated by the development (according to generally accepted engineering standards) when all subdivided lots five acres or less in size are fully developed. When such lots are subsequently developed, they shall be exempt from further review under the provisions of this section. However, any lot within such subdivision that is greater than five acres in size and that was not included in the stormwater calculations for purposes of designing a stormwater management system that satisfies the requirements of this section shall be required to comply with the requirements of this section at the time such lot is developed, if and to the extent required to do so under subsection (a)(3) of this section.
- (6) Notwithstanding the other provisions of this subsection, if (i) a lot is within a commercial district described in Section 15-136 or a manufacturing district described in 15-137, (ii) on the date that a development permit application is submitted and the fees paid the lot is already developed to the extent that the lot contains at least 10,000 square feet of impervious surface area, and (iii) the reasonably estimated cost of the redevelopment of the lot as proposed in the development permit application exceeds the greater of \$100,000, or fifty percent (50%) of the appraised value of the existing improvements on the lot, then the requirements of this section shall be applicable to such redevelopment. For purposes of this subdivision (a)(6), the terms “cost” and “appraised value” shall have the same meaning as provided in Subsection 15-125(c) of this chapter.
- (7) Notwithstanding the other provisions of this subsection, the requirements of this section shall apply to any development involving the reconstruction of a previously paved area comprising at least 10,000 square feet (repaving or resurfacing shall not be considered reconstruction).
- (8) Notwithstanding the other provisions of this subsection (but subject to the provisions of subsection (a)(8)f below), the requirements of this section shall apply to all proposed new development that cumulatively disturbs one acre or more for single family and duplex residential property and recreational facilities, and one-half acre for commercial, industrial, institutional, multifamily residential, or local government property. For purposes of this subsection (a)(8) only:
 - a. Development means any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a

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land area or which otherwise decreases the infiltration of precipitation into the soil.

- b. New development means any development project that does not meet the definition of existing development set forth immediately below.
- c. Existing development means development not otherwise exempted from the provisions of this section that meets one of the following criteria: (i) it either is built or has established a vested right based on statutory or common law grounds as of the effective date of this section, or (ii) it occurs after the effective date of this section but does not result in a net increase in impervious surface area and does not increase the infiltration of precipitation into the soil..
- d. Land disturbing activity means any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
- e. Larger common plan of development or sale means any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.
- f. Redevelopment means any development on previously developed land.

(b) Developments must install and maintain stormwater management systems that will control and treat runoff from the first one inch of rain as follows:

- (1) Draw down the treatment volume in accordance with the requirements of the North Carolina Division of Water Quality Best Management Practices (NC DWQ BMP) Manual.
- (2) Achieve an eighty-five percent (85%) average annual removal rate for Total Suspended Solids.

(c) Subject to subsections (d) and (f), developments must install and maintain stormwater management systems that ensure that the nutrient load contributed by the development is limited to not more than 2.2 pounds per acre per year of nitrogen and 0.82 pounds per acre per year of phosphorus.

(d) Subject to subsection (f), developments that (i) would otherwise be required under subsection (a) to comply with the stormwater treatment standards set forth in subsection (c), and (ii) involve the replacement or expansion of existing structures or improvements, shall have the option of either satisfying the requirements of subsection (c) of this section or achieving a thirty-five percent (35%) nitrogen and five percent (5%) phosphorous reduction in the loading rates for these nutrients when comparing the situation that exists on the date a completed application is submitted to the post redevelopment situation for the entire project site.

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(e) The need for engineered stormwater controls to meet the nutrient loading rate standards set forth in subsections (c) and (d) shall be determined by using the loading calculation methods and other standards established by the Division of Water Quality as set forth in Sub-Item (4)(a) of 15A NCAC 2B.0265, including the current version of the Stormwater Best Management Practices Manual published by the Division.

(f) Developers shall have the option of offsetting part of their nitrogen and phosphorus loads by implementing or funding offsite management measures as follows:

- (1) Before using offsite offset options, a development shall attain a maximum nitrogen loading rate on-site of six pounds per acre per year for single-family detached and duplex residential development and ten pounds per acre per year for other development, including multi-family residential, commercial and industrial, and shall meet any requirement for engineered stormwater controls required by this Article..
- (2) Offsite offsetting measures shall achieve at least equivalent reductions in nitrogen and phosphorus loading to the remaining reduction needed onsite to comply with the loading rate standards set forth in subsection (c) of this section.
- (3) A developer may make offset payments to the N.C. Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the Town of Carrboro, or may propose other offset measures including providing the developer's own offsite offset or utilizing a private seller. All offset measures shall meet the requirements of 15A NCAC 02B.0273(2) through (4) and 15A NCAC 02B.0240.

(g) Developments shall be constructed and maintained so that their stormwater management systems meet the following minimum standards:

- (1) The post-development discharge rates shall be less than or equal to the pre-development discharge rates for the 1-, 2-, 5-, 10-, and 25-year 24-hour design storms.
- (2) For upstream properties, the 1% chance flood elevation may not be increased.
- (3) The ~~Council Board~~ finds that increases in the total annual volume of runoff associated with new development results in decreased groundwater recharge, increased stream channel instability/erosion and significant water quality degradation. Therefore to the maximum extent practicable developments shall install and maintain stormwater management systems such that the post-development total annual stormwater runoff volume shall not exceed the predevelopment volume by more than the limits set forth in the table below. The predevelopment and post-development annual

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stormwater runoff volume shall be calculated using the most up to date guidance and accounting methodology from North Carolina environmental regulatory agencies with stormwater management oversight. **(AMENDED 6/26/12, AMENDED 2/26/13, AMENDED 5/28/19)**

A composite curve number shall be assigned to the development site in the pre-development stage using the runoff curve number method described in USDA NRCS Technical Release 55, Urban Hydrology for Small Watersheds (June, 1986). See also Chapters 4 through 10 of NEH-4, SCS (1985).

Preexisting Composite Curve Number*	Maximum allowable increase in annual stormwater runoff volume
> 78	50%
>70-78	100%
> 64-70	200%
<=64	400%

(AMENDED 2/26/13)

(h) The presumption established by this section is that, to satisfy the standards set forth herein, the applicant shall design and construct all stormwater management systems required by this section in accordance with the guidelines set forth in the Town of Carrboro Storm Drainage Design Manual (Appendix I to this chapter). However, the permit issuing authority may establish different requirements when it concludes, based upon (i) the information it receives in the consideration of the specific development proposal, and (ii) the recommendations of the public works director or the town engineer, that such deviations from the presumptive guidelines are necessary to satisfy the standards set forth in this section, or that the standards can still be met with such deviations and the deviations are otherwise warranted.

(i) Approval by the town of an applicant's stormwater management plans, and construction by the applicant of the stormwater management system as shown in such plans, shall not relieve the applicant of the responsibility of complying with the standards set forth in this section. If at any time prior to two years after the date that the town concludes that a stormwater management system (or any component thereof) has been constructed in accordance with approved plans, the town determines that the stormwater management system (or any component thereof) installed to meet the requirements of this section does not achieve that objective, the town may require the submission of revised plans and the installation of new, altered, or additional facilities to bring the development into compliance. Prior to issuance of a certificate of occupancy or approval of a final plat, the town may require the applicant to post a performance bond or other sufficient surety to guarantee compliance with this section. **(AMENDED 1/29/13)**

(j) Upon completion of construction of the stormwater management facilities, the permit recipient shall submit to the town "as built" plans for all such facilities in the form required by the town. Compliance with this requirement must occur prior to issuance of a certificate of

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occupancy, or prior to final plat approval (if applicable), unless adequate security is otherwise provided in accordance with the provisions of Sections 15-53 or 15-60.

(k) Proposed new development undertaken by the Town solely as a public road project shall be deemed compliant with the provisions of this section if it meets the buffer protection requirements of Part III of this Article. All other developments shall comply with both the requirements of this section and the provisions of Part III of this Article.

(l) Variances from the provisions of this section may only be granted in accordance with the requirements of Section 15-92, including subsection (l) of that section.

Art. XVI. FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION**Section 15-263.1 Maintenance of Structural BMPs.**

(a) For purposes of this section, a “structural BMP” is a device constructed or installed to trap, settle out, or filter pollutants from stormwater runoff or to reduce stormwater discharge volume or velocity in order to satisfy one or more of the requirements of Section 15-263.

(b) The owner of each structural BMP installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed. Such operation and maintenance shall be in accordance with the Operation and Maintenance Agreement specified in subsection (e) of this section.

(c) The owner of each structural BMP shall ensure that each such facility is inspected in accordance with the Operation and Maintenance Agreement specified in subsection (e) of this section by a qualified registered North Carolina professional or other individual specially qualified by an appropriate training, testing, and certification program. The person performing the inspections shall submit annually to the administrator a report certifying the results of such inspections. The report shall be in a format and shall contain the information prescribed by the administrator. The first report shall be due one year from the date of the as built certification required by Subsection 15-263(i), and subsequent reports shall be due on or before that anniversary date.

(d) The owner of each structural BMP shall ensure that, in accordance with the Operation and Maintenance Agreement, funds are set aside in an escrow account, sinking fund, or other arrangement, sufficient to pay major, non-routine costs associated with keeping such BMPs in proper operational condition, such as the cost of sediment removal, structural, biological, or vegetative replacement, major repair, or reconstruction. The owner shall submit annually to the administrator a report certifying that such funds have been set aside. The report shall be in a format and shall contain the information prescribed by the administrator. The first report shall be due one year from the date of the as-built certification required by Subsection 15-263(i), and subsequent reports shall be due on or before that anniversary date.

(e) Prior to final plat approval, in the case of a subdivision, or prior to the issuance of a certificate of occupancy, in the case of an unsubdivided development, the owner of a development that contains a structural BMP shall enter into an Operation and Maintenance Agreement with the town (and shall record such agreement in the Orange County Registry) that specifies that the owner, and his or her successor and assigns:

- (1) Agrees to comply with the obligations set forth in subsections (b), (c), and (d) of this section;
- (2) Authorizes the town and its employees or agents to enter the property where the structural BMPs are located at reasonable times to inspect the same for compliance with the requirements of this section, the permit issued pursuant thereto, and the provisions of the Operation and Maintenance Agreement;

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- (3) Agrees that, if the owner fails to operate and maintain such structural BMPs in accordance with the requirements of this section, the permit issued pursuant thereto, and the provisions of the Operation and Maintenance Agreement, the town is authorized (but not obligated) to enter the property to perform such work as is necessary to bring such BMPs into compliance and to charge the owner with the costs of such work.

(f) If structural BMPs are to be owned by a property owners or homeowners association or similar entity, then the covenants applicable to such association shall clearly reference the obligations of the association, as owner of such BMPs, to fulfill the obligations of the owner relating to such BMPs as required by the provisions of this section, the permit issued pursuant thereto, and the provisions of the Operation and Maintenance Agreement.

(g) If a structural BMP is located within a subdivision, then the recorded plat of such subdivision shall include a reference to the book and page number where the Operation and Maintenance Agreement is recorded. **(AMENDED 6/26/12)**

(h) Where appropriate in the determination of the Administrator to assure compliance with this section, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible. **(AMENDED 6/26/12)**

Section 15-264 Sedimentation and Erosion Control

(a) No zoning, class A or class B special use, ~~or conditional use~~ permit may be issued and final plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity subject to the jurisdiction of the Orange County Erosion Control Officer or the North Carolina Sedimentation Control Commission unless such officer or agency has certified to the town; either that:

- (1) Any permit required by such officer or agency has been issued or any erosion control plan required by such officer or agency has been approved; or
- (2) Such officer or agency has examined the preliminary plans for the development and it reasonably appears that any required permit or erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until such officer or agency issues any required permit or approves any required erosion control plan.

(b) For purposes of this section, "land disturbing activity" means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

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(c) The Orange County Erosion Control Officer is authorized by resolution of the Carrboro ~~Town Council~~~~Board of Aldermen~~ to enforce within the town the Orange County Soil Erosion and Sedimentation Control Ordinance. **(AMENDED 12/7/83)**

(d) **(REPEALED 12/7/83)**

Section 15-265 (REPEALED 3/24/09).**Section 15-266 Impervious Surface Limitations (AMENDED 12/7/83; 05/15/90)**

(a) Within a B-5 or WM-3 zoning district (the total area of which comprises less than one percent of the area of the University Lake Watershed and all of which is located more than one-half mile from the normal pool elevation of University Lake), not more than twenty-four percent (24%) of the land on any lot may be covered by an impervious surface such as a street, drive, sidewalk, parking lot, building, or other roofed structure, etc. In the event that the area of impervious surface is greater than six percent (6%) of the total lot, stormwater management techniques must be employed that would retain the first one inch of rainfall running off of all impervious surfaces on a lot. A registered engineer must certify that the stormwater techniques used will accomplish this objective before a permit is issued, and it shall be a continuing condition of the permit that the owner provide necessary maintenance so that the stormwater retention techniques continue to function effectively. Such stormwater retention techniques shall be subject to inspection by the Town at least annually. In granting the ~~class A special~~~~conditional~~ use permit authorizing such facilities, the ~~Council~~~~Board~~ shall require the developer to post a cash bond or other sufficient security to guarantee that the developer or his successor shall adequately maintain such stormwater retention facilities so that such facilities will continue to operate as intended. **(AMENDED 07/06/93; 10/15/96)**

(b) Subject to subsections (c) and (d), within a C or WR zoning district the maximum impervious surface coverage permissible on any lot shall be as shown in the following Table of Impervious Surface Calculations, which establishes a sliding scale of permissible impervious surface coverage based on lot size. For purposes of applying the table, lot sizes shall be rounded to the nearest tenth of an acre. Lot sizes of less than 0.5 acres may not exceed 4200 square feet of impervious surface, and lot sizes in excess of five acres may not exceed an impervious surface area equal to 4% of the lot size. For purposes of this subsection, impervious surface includes but is not limited to areas such as a street, driveway, sidewalk, parking lot, building, or other roofed or paved structure.

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LOT SIZE		IMPERVIOUS SURFACE	
ACRES	SQUARE FOOTAGE	SQUARE FOOTAGE	PERCENTAGE
0.5	21,780	4,200	19.28
0.6	26,136	4,300	16.45
0.7	30,492	4,400	14.43
0.8	34,848	4,500	12.91
0.9	39,204	4,600	11.73
1.0	43,560	4,700	10.79
1.1	47,916	4,800	10.02
1.2	52,272	4,900	9.37
1.3	56,628	5,000	8.83
1.4	60,984	5,100	8.36
1.5	65,340	5,200	7.96
1.6	69,696	5,300	7.60
1.7	74,052	5,400	7.29
1.8	78,408	5,500	7.04
1.9	82,764	5,600	6.77
2.0	87,120	5,700	6.54
2.1	91,476	5,800	6.34
2.2	95,832	5,900	6.16
2.3	100,188	6,000	5.99
2.4	104,544	6,100	5.83
2.5	108,900	6,200	5.69
2.6	113,256	6,300	5.56
2.7	117,612	6,400	5.44
2.8	121,968	6,500	5.33
2.9	126,324	6,600	5.22
3.0	130,680	6,700	5.13
3.1	135,036	6,800	5.04
3.2	139,392	6,900	4.95
3.3	143,748	7,000	4.87
3.4	148,104	7,100	4.79
3.5	152,460	7,200	4.72
3.6	156,816	7,300	4.66
3.7	161,172	7,400	4.59
3.8	165,528	7,500	4.53
3.9	169,884	7,600	4.47
4.0	174,240	7,700	4.42
4.1	178,596	7,800	4.37
4.2	182,954	7,900	4.32
4.3	187,308	8,000	4.27
4.4	191,664	8,100	4.23
4.5	196,020	8,200	4.18
4.6	200,376	8,300	4.14
4.7	204,732	8,400	4.10
4.8	209,088	8,500	4.07
4.9	213,244	8,600	4.03
5.0	217,800	8,712	4.00

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(c) If a tract is subdivided, then impervious surface shall be calculated as follows:

- (1) The area of each lot shown on a proposed final plat shall be calculated. For purposes of this calculation, all street right-of-way created as part of the subdivision shall be allocated to the adjoining lots by extending lot lines. If lots are created on either side of a proposed street, lot lines shall be extended to the centerline of the right-of-way.
- (2) Maximum impervious surface area for each lot shall be determined in accordance with subsections (a) or (b).
- (3) The sum total of impervious surface area permissible on the entire tract shall be determined by adding together the impervious surface area available to each lot as determined under subsections (a) or (b).
- (4) The impervious surface area within streets and other areas, (such as common areas) outside of individual lot boundaries shall be subtracted from the total area calculated pursuant to subsection (3).
- (5) Following the calculation set forth in subsection (4), the remaining permissible impervious surface area shall be allocated by the subdivide to each lot, subject to the applicable limitations set forth in this section, and subject to the further limitation that, with respect to a cluster subdivision, in no case may the overall impervious surface area allocation for the subdivided tract exceed 4% of the area of that tract. For purposes of this calculation, the area of each lot shall exclude street right-of-way. The allocation assigned to each lot shall be indicated on the face of the subdivision final plat, and purchasers of each lot shall be bound by such allocation.

(d) If a development is completed in phases or stages, the percentage restrictions set forth in this section shall apply to each separate phase or stage.

(e) All development within the JLWP that requires a sedimentation and erosion control plan under 15A NCAC 4 or the Orange County Sedimentation and Erosion Control Ordinance shall be subject to the following requirements:

- (1) Density and built-upon area shall be limited as follows:
 - a. For single family residential subdivisions, minimum lot sizes of 20,000 square feet or maximum of two dwelling units per acre; or
 - b. Twenty-four percent built-upon area for all other residential and non-residential development; or
 - c. Three dwelling units per acre or thirty-six percent built-upon area for properties without curb and gutter systems.

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- (2) Stormwater runoff from such developments shall be transported by vegetated conveyances to the maximum extent practicable. **(AMENDED 10/15/96)**

(f) For purposes of this section, the term “built-upon area” means that portion of a development project that is covered by impervious or partially impervious cover, including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. Wooden slatted decks and the water area of a swimming pool are considered pervious. **(AMENDED 10/15/96)**

Section 15-267 Additional Development Standards Within C and WR District
(AMENDED 11/11/86; 05/15/90)

(a) Buildings and other impervious surfaces within the C and WR zoning districts shall be located, to the extent reasonably possible, so as to (i) take full advantage of the assimilative capacity of the land and (ii) avoid areas described in subsection 15-198(e) and (f). **(AMENDED 09/05/95).**

(b) To avoid the creation of lots that will be difficult to build upon in a manner that complies with the standard set forth in subsection (a) and the impervious surface limitations set forth in Section 15-266, preliminary and final plats for the subdivision of land within the C and WR zoning districts shall show buildable area and approximate driveway locations for all lots within such subdivision. Thereafter, no zoning permit may be issued for construction of buildings or driveways outside the buildable areas so designated on the final plat unless the zoning administrator makes a written finding that the proposed location complies with the provisions of subsection (a) of this section as well as section 15-266.

Section 15-268 (REPEALED 3/24/09).

PART III. WATER QUALITY BUFFERS

Section 15-269 Findings, Purpose and Applicability (REPEALED AND REWRITTEN 3/24/09; REWRITTEN 10/26/10; AMENDED 3/4/14)

(a) The ~~Council~~~~Board~~ finds that:

- (1) Soil and pollutants carried overland from upstream land uses can be effectively trapped by leaving a relatively undisturbed strip of vegetation parallel and adjacent to a drainage feature.
- (2) Properly managed overland water flow can be directed into this water quality buffer area in a manner that will minimize the concentration of flow and promote diffuse flow and infiltration of the water.
- (3) Sediments and other pollutants carried by water will be reduced as a result of the dispersion and infiltration of flow and associated filtering, absorption, and uptake of pollutants.

(b) The purpose of this part is to protect, preserve, and enhance water quality buffers in order to maintain their pollutant removal functions and protect the quality of surface waters and water supplies. With regard to the Jordan Buffer Rules, it should be noted that nutrient removal is the primary function of riparian buffers. The NC Division of Water Quality shall administer the portion of these requirements of Rule 15 A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of governments, and forest harvesting and agricultural activities. The Town of Carrboro shall administer those provisions for all other landowners and shall administer the remaining provisions of this Article for all other land disturbing activities and developments.

(c) Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the water quality buffers but are also regulated pursuant to other State and Federal regulations.

Section 15-269.1 Definitions

For purposes of this part, the following terms shall have the meaning as indicated:

- (a) ‘Access Trails’ means pedestrian trails constructed of pervious or impervious surfaces, and related structures to access a surface water including boardwalks, steps, rails, signage.

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- (b) 'Archaeological Activities' means activities conducted by a Registered Professional Archaeologist (RPA).
- (c) 'Buffer' means a water quality buffer, or an undeveloped area parallel and adjacent to a drainage feature to protect and enhance water quality.
- (d) 'DBH' means diameter at breast height of a tree measured at 4.5 feet above ground surface level.
- (e) 'Development' means the same as defined in Rule 15A NCAC 2B .0202(23).
- (f) 'Diffuse flow' means flow that generally moves down slope via sheet flow rather than concentrating in rills, gullies, and ditches and in doing so is able to infiltrate into the soil and plant root zone.
- (g) 'Ditch' means a man-made channel other than a modified natural stream.
- (h) 'Ephemeral stream' means a drainage feature that carries only surface runoff in direct response to precipitation. An ephemeral stream may or may not have a well-defined channel and the stream bed is always above the water table. An ephemeral stream lacks the biological, hydrological, and physical characteristics commonly associated with perennial or intermittent streams.
- (i) 'Existing development' means development, other than that associated with agricultural or forest management activities that meets one of the following criteria:
 1. It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or
 2. It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.
- (j) 'Greenway / Hiking Trails' means pedestrian and bicycle trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage and that generally run parallel to the shoreline.
- (k) 'High Value Tree' means a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for

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hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

- (l) 'Intermittent stream' means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
- (m) 'New development,' for the purpose of this Article, means any development project that does not meet the definition of existing development set out in this Section.
- (n) 'Perennial stream' means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
- (o) For purposes of this Article only, 'Public utility' means any governmental entity, nonprofit organization, corporation, or any entity defined as a public utility for any purpose by Section 62.3 of the North Carolina General Statutes that is engaged in the production, generation, transmission, delivery, collection, or storage of water, sewage electricity, gas, oil, or electronic signals 'Riparian buffer enhancement' is defined as the process of converting a non-forested riparian area, where woody vegetation density is greater than or equal to 100 trees per acre but less than 200 trees per acre, to a forested riparian buffer area. The enhanced, forested riparian buffer area shall include at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acres at maturity, and diffuse flow through the riparian buffer shall be maintained.
- (p) 'Riparian buffer restoration' is defined as the process of converting a non-forested riparian area, where woody vegetation density is less than 100 trees per acre, to a forested riparian buffer area. The restored, forested riparian buffer area shall include predominately native hardwood tree species planted at a density sufficient to provide 320 trees per acres at maturity, and diffuse flow through the riparian buffer shall be maintained.
- (q) 'Shoreline stabilization' is the in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete line channels, riprap or gabions, while providing bank stabilization, shall not be considered stream restoration.
- (r) 'Stream' means a body of concentrated flowing water in a natural low area or natural channel on the land surface.

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- (s) 'Stream restoration' is defined as the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. 'Referenced' or 'referenced reach' means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.
- (t) 'Stump diameter' means the diameter of a tree measured at six inches above the ground surface level.
- (u) 'Surface waters' means any ephemeral, intermittent, or perennial stream, lake, pond, or reservoir, and including waters of the state as defined in G.S. 143-212 except underground waters".
- (v) 'Temporary road' means a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures or water dependent structures, or to maintain public traffic during construction.
- (w) 'Tree,' for the purposes of this Part, means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
- (x) 'Water dependent structures' are those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads.

Section 15-269.2 Required Buffers

(a) Subject to the remaining provisions of this part, the water quality buffer areas described in this section are hereby designated as described below. The width of these buffers shall be as prescribed in Section 15-269.3. Disturbance of the area within, or outside causing hydrologic impacts upon, these buffers is restricted or prohibited as provided in Sections 15-269.4 and 15-269.5.

(b) Buffers shall be established adjacent to all surface waters designated as such on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture, ii the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS), or iii other more accurate mapping approved by the Geographic Information Coordinating Council (GICC) and the N.C. Environmental Management Commission (EMC). Prior to approving a map under item iii., the EMC shall provide a 30-day public notice and opportunity for public comment.

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- (1) If surface water is not designated as such on any of the foregoing maps, then the buffer requirements of this article applicable to perennial streams, intermittent streams, lakes, or ponds that are shown on such maps shall not apply, but buffers applicable to ephemeral streams may apply.
- (2) Where the specific origination point of a stream is in question, a publication of the N.C. Division of Water Quality entitled *Identification Methods for the Origins of Intermittent and Perennial Streams* shall be used by town representatives who have successfully completed the Division's Surface Water Identification Training Certification course to establish that point.
- (3) When a landowner or other affected party believes that surface waters shown on the above described maps have been inaccurately depicted as perennial streams, intermittent stream, lakes or ponds, then such landowner or other affected party may have an on-site evaluation completed by a party who has successfully completed the NC Division of Water Quality *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, and submit the results of that evaluation to the town. Any disputes over onsite determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.

(c) Buffers shall also be established adjacent to all ephemeral streams and ponds not shown on the above described maps that have a contributing drainage area that is at least five acres in size, as depicted in the Town's GIS database.

- (1) When a landowner or other affected party believes that the designation of an area by the town as an ephemeral stream or pond with a contributing drainage area of at least five acres is in error, such landowner or other affected party may request that Town staff perform an onsite visit and/or submit to the Town data sufficient to make this case. Upon request, Town staff shall make a site visit and consider the information submitted by the landowner or other affected party as well as other relevant information.
- (2) The decision as to the existence of an ephemeral stream or pond with a contributing drainage area of at least five acres shall be made by the permit issuing authority when it makes a final decision on the issuance of the permit.

(d) The administrator may require that the precise location of any surface water be Surveyed and accurately shown on development plans whenever necessary to ensure that a proposed development complies with the provisions of this article.

Section 15-269.3 Width of Buffers

(a) ZONES OF THE RIPARIAN BUFFER. The protected riparian buffer shall have two zones as follows:

- (1) A streamside zone ("Zone 1") shall consist of an undisturbed area except as provided for in Section 15-269.5. The function of the streamside zone is to protect the physical and ecological integrity of the stream ecosystem, and filter runoff received from Zone 2. The desired vegetation for Zone 1 is mature forest. The location of Zone 1 shall be as follows:
 - a. Zone 1 shall begin at the most landward limit of the top of the bank. Zone 1 shall extend landward on either side of perennial and intermittent stream, and ephemeral streams with clearly defined streambanks, as indicated in Table 1, measured horizontally on a line perpendicular to a vertical line marking the origin of the buffer as defined above. For ephemeral streams without clearly defined streambanks, Zone 1 shall be measured from the centerline of the stream.
 - b. For ponds, lakes and reservoirs, Zone 1 shall begin at the most landward limit of the normal water level and extend landward as indicated in Table 1, measured horizontally on a line perpendicular to a vertical line marking the edge of the surface water.
- (2) Zone 2 shall consist of an undisturbed area except as provided for in Section 15-269.5. The functions of this zone are to: protect the streamside zone, to filter runoff from upland development, and deliver runoff to Zone 1 in a dispersed fashion. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward as indicated in Table 1 as measured horizontally on a line perpendicular to the surface water. The desired vegetation for this zone is mature native vegetation; forest cover is encouraged.
- (3) The total buffer width shall be the sum of the widths of the two zones, as indicated in Table 1, and shall extend on all sides of the waterbody.

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Table 1: Required Minimum Buffer Width (*)

Waterbody type	Zone 1 width		Zone 2 width		Total width	
	Watershed	Outside of Watershed	Watershed	Outside of Watershed	Watershed	Outside of Watershed
Perennial Streams, Ponds, Lakes, Reservoirs	100'	50'	--	50'	100'	100'
Intermittent Streams, Ponds	60'	30'	--	30'	60'	60'
Ephemeral Streams, Ponds	--	--	30'	15'	30'	15'

* “Watershed” means within the University Lake Watershed, and “Outside of watershed” means the remainder of the Town’s planning jurisdiction. For streams, the width indicated is in one direction from the stream channel; the total width is therefore twice the width indicated.

- (4) Notwithstanding the other provisions of this section, in no case shall the width of any buffer be less extensive than the special flood hazard area for the same stream, pond, or lake drainage feature designated in accordance with the provisions of Part I of this article.

Section 15- 269.4 Diffuse Flow Requirement

Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters the buffer, and maintained in the buffer by dispersing runoff that has concentrated into rills, gullies, and ditches, and reestablishing vegetation where concentrated flow has displaced vegetation. Corrective action to restore diffuse flow shall be taken if necessary to impede the formation or expansion of erosion rills or gullies. Where site conditions constrain the ability to ensure diffuse flow through both Zones 1 and 2, emphasis will be placed on ensuring diffuse flow through Zone 1, as provided for in 15-269.3. No new engineered stormwater devices or conveyances are allowed in the buffers except as provided for in Section 15-269.5.

Section 15-269.5 Exempt and Allowable Activities

(a) The table set forth in subsection (d) below sets out the activities and their designation under this part as exempt, allowable, or allowable with mitigation, except as provided for in 15-269.2. All activities not designated as exempt, allowable, or allowable with mitigation are prohibited within the buffer unless a variance is granted pursuant to Section 15-269.8.

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(b) Activities designated in the table below as exempt, allowable, and allowable with mitigation shall be subject to the following requirements. All activities shall be designed, constructed and maintained to minimize soil and vegetation disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities. Activities designated in the table as allowable and allowable with mitigation require written authorization from the Town.

- (1) Exempt. Activities designated as exempt are allowed within the buffer. In addition, exempt uses shall meet the requirements listed in the table and the accompanying notes for the specific use.
- (2) Allowable. Activities designated as allowable are permissible within the buffer provided that there are no practical alternatives to the requested use as determined in accordance with Section 15-269.6.
- (3) Allowable With Mitigation. Activities designated as allowable with mitigation are permissible within the buffer provided that there are no practical alternatives to the requested use as determined in accordance with Section 15-269.6, and an appropriate mitigation strategy has been approved pursuant to Section 15-269.7.

(c) For public utilities as defined in this Article, the activities and their designation as set forth in the table in subsection (d) apply to expansions and extensions. The requirements do not apply to routine or emergency maintenance and repairs.

Art. XVI. FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION**(d) Table of Exempt and Allowable Activities in Water Quality Buffers (AMENDED 3/4/14)**

Activity	Exempt	Allowable	Allowable with Mitigation
Drainage, Stormwater, Erosion Control, and other Water-based activities			
<ul style="list-style-type: none"> • Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3 • Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3 	X	X	
<p>Drainage ditches, roadside ditches and stormwater conveyances through buffers:</p> <ul style="list-style-type: none"> • New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided that flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to surface waters Realignment of roadside drainage ditches retaining the design dimensions provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations. • New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer. • New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topographic constraints provided that other practicable BMPs have been employed. 	X	X	X X
<ul style="list-style-type: none"> • Ponds created by impounding streams and not used as stormwater BMPs: • New ponds in Zone 2 only provided that a riparian buffer meeting the requirements of Section 15-269.3 and 15-269.4 is established adjacent to the pond • All other new ponds 		X	X

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Activity	Exempt	Allowable	Allowable with Mitigation
Water wells <ul style="list-style-type: none"> • Single family residential water wells • All other water wells 	X	X	
Wetland, stream and buffer restoration that results in impacts to the riparian buffers: <ul style="list-style-type: none"> • Wetland, stream and buffer restoration that requires DWQ approval for the use of a 401 Water Quality Certification • Wetland, stream and buffer restoration that does not require DWQ approval for the use of a 401 Water Quality Certification 	X	X	
Miscellaneous			
Archaeological activities	X		
Fences: <ul style="list-style-type: none"> • Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in Section 15-316 • Fences provided that disturbance is minimized and installation results in removal of trees as defined in Section 15-316 	X	X	
Grading and revegetation in Zone 2 only provided that diffuse flow and the health of existing vegetation in Zone 1 is not compromised and disturbed areas are stabilized until they are revegetated		X	
Maintenance access on modified natural streams: a grassed travel way on one side of the water body where less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities: <ul style="list-style-type: none"> • Mining activities that are covered by the Mining Act provided that new buffers that meet the requirements of this section are established adjacent to the relocated channels Mining activities that are not covered by the Mining Act OR where new buffers that meet the requirements of this section are not established adjacent to the relocated channels Wastewater or mining dewatering wells with approved NPDES permit 	X	X	X

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Activity	Exempt	Allowable	Allowable with Mitigation
Preservation or maintenance of historic or cultural sites	X		
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	
Removal of previous fill or debris provided that diffuse flow is maintained, a stabilizing ground cover sufficient to restrain erosion is established, and any woody vegetation removed is restored		X	
Wildlife passage structures		X	

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Recreation			
<p>Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:</p> <ul style="list-style-type: none"> • Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in Section 15-316 and no impervious surface is added to the buffer. • Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Section or impervious surface is added to the buffer. 	X	X	
Canoe Access provided that installation and use does not result in removal of trees as defined in Section 15-316 and no impervious surface is added to the buffer.	X		
Greenway / hiking trails ¹ designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical		X	
<p>Playground equipment:</p> <ul style="list-style-type: none"> • Playground equipment on single family lots provided that installation and use does not result in removal of vegetation • Playground equipment installed on lands other than single-family lots or that requires removal of vegetation 	X	X	
Transportation			
Bridges		X	

¹ To the extent practicable, greenway easements shall be located a minimum of 10 feet from the top of bank; surfaces shall be a minimum of 15 feet from the top of bank

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<p>Driveway crossings of streams and other surface waters subject to this Section:</p> <ul style="list-style-type: none"> • Individual driveway crossings that disturb equal to or less than 25 linear feet or 2,500 square feet of buffer • Individual driveway crossings that disturb greater than 25 linear feet or 2,500 square feet of buffer • Multiple driveway crossings in any development that cumulatively disturbs equal to or less than 150 linear feet or one-third of an acre of buffer • Multiple driveway crossings in any development that cumulatively disturbs greater than 150 linear feet or one-third of an acre of buffer • Driveway impacts other than crossing of a stream or other surface waters subject to this Section 	X	X X	X X
Railroad impacts other than crossings of streams and other surface waters subject to this Part.			X
<p>Railroad crossings of streams and other surface water drainage features subject to this Part:</p> <ul style="list-style-type: none"> • Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer • Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer 	X	X	X
<p>Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety:</p> <ul style="list-style-type: none"> • Less than or equal to 2,500 square feet of buffer impact • Greater than 2,500 square feet of buffer impact 		X	X

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Temporary roads, provided that restoration activities, including re-establishment of pre-construction topographic and hydrologic conditions and replanting with comparable vegetation occur immediately after construction. Tree planting may occur during the dormant season; the restored buffer shall comply with Section 15-269.7(g) within five years: <ul style="list-style-type: none"> • Less than or equal to 2,500 square feet of buffer disturbance • Greater than 2,500 square feet of buffer disturbance • Associated with culvert installation of bridge construction or replacement 	X	X X	
Transportation (vehicular, bike) crossings of streams and other surface waters subject to this Section: <ul style="list-style-type: none"> • Transportation crossings that impact equal to or less than 40 linear feet of riparian buffer • Transportation crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Transportation crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer 	X	X	X
Transportation impacts other than crossings of streams and other surface waters subject to this Section			X
Vehicle access roads and boat ramps leading to the surface water, docks, fishing piers, and other water dependent activities, but not crossing the surface water and having a minimum practicable width of not more than 10 feet.		X	

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Utilities			
Electric utility, aerial, perpendicular crossings ^{2,3,4} : • Disturb equal to or less than 100 linear feet of buffer • Disturb greater than 100 linear feet of buffer	X	X	
Electric utility, aerial, other than perpendicular crossings ³ : • Impacts greater than 50 feet from surface waters • Impacts within 30-50 feet of surface waters • Impacts within 30 feet of surface waters ^{2,4,5}	X	X	X
Electric utility, underground, perpendicular crossings ^{3,4,6} : • Disturb less than or equal to 40 linear feet of buffer • Disturb greater than 40 linear feet of buffer	X	X	

² Provided that within 30 feet of surface waters, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Administrator as defined in Section 15-269.6.

- A zone at least 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

³ Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

⁴ Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless the Administrator completes a no practical alternative evaluation as defined in Section 15-269.6

⁵ Provided that:

- No heavy equipment shall be used within 30 feet of surface waters.
- A tree protection plan shall be developed and approved by Administrator that will protect the buffer to the maximum extent practicable.
- Trees shall be: 1) felled so as not to damage trees not intended for removal or stream banks; and 2) removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps shall be removed only by grinding.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- At the completion of the project the disturbed area shall be stabilized with native vegetation.
- The condition and use of the area within 50 feet of surface waters shall be consistent with Sections 15-269.3 and 15-269.4.

⁶ •A tree protection plan shall be developed and approved by Administrator that will protect the buffer to the maximum extent practicable.

- Trees shall be felled so as not to damage trees not intended for removal or stream banks.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Stump grinding is allowable only for stumps more than 30 feet from surface waters.

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Electric utility, underground, other than perpendicular crossings ^{3,6} :			
• Impacts greater than 50 feet from surface waters	X		
• Impacts within 30-50 feet of surface waters		X	
• Impacts within 30 feet of surface waters ⁵			X

• Within 30 feet of surface water, all of the following BMPs for underground utility lines shall be used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Administrator, as defined in Section 15-269.6.

• Trees shall be removed by chain. Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.

• Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench created for the line installation.

• Underground cables shall be installed by vibratory plow or trenching.

• The trench shall be backfilled with the excavated soil material immediately following cable installation.

• No fertilizer shall be used other than a one-time application to re-establish vegetation.

• In wetlands, mats shall be utilized to minimize soil disturbance.

• At the completion of the project the disturbed area shall be stabilized with native vegetation.

• The condition and use of the area within 50 feet of surface waters shall be consistent with Sections 15-269.3 and 15-269.4

⁷ All sewer crossings shall be protected from damage and risk of future leakage to the maximum extent practicable using ductile iron and other appropriate construction materials and practices.

⁸ The width of the corridor that is maintained to exclude woody vegetation will not exceed 20 feet in width except to accommodate vehicle turnaround, preparedness for emergency situations, and state and federal regulatory standards.

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Non-electric utility, perpendicular crossings ^{3,4,6,7} : <ul style="list-style-type: none"> • Disturb equal to or less than 40 linear feet of buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb equal to or less than 40 linear feet of buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of buffer with a maintenance corridor equal to or less than 10 feet in width • Disturb greater than 40 linear feet but equal to or less than 150 linear feet of buffer with a maintenance corridor greater than 10 feet in width • Disturb greater than 150 linear feet of buffer 	X	X	X
Non-electric utility, other than perpendicular crossings ^{3,6} : <ul style="list-style-type: none"> • Impacts greater than 50 feet from surface waters • Impacts within 30-50 feet of surface waters • Impacts within 30 feet of surface waters^{5,8} 	X	X	X
Vegetation Management			
Forest harvesting – See Section 15-319.1			
Fertilizer application: One-time fertilizer application to establish vegetation	X		
Vegetation management: <ul style="list-style-type: none"> • Emergency fire control measures provided that topography is restored • Mowing and harvesting of plant products in Zone 2 only • Planting vegetation to enhance the riparian buffer • Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised • Removal of individual trees which are dead, diseased, or damaged, are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering the stability of the streambank • Removal of poison ivy • Removal of invasive exotic vegetation as defined in Smith, Cherri L., 1998 <i>Exotic Plant Guidelines</i>. DENR, Division of Parks and Recreation. Raleigh, N.C. Guideline # 30, or a more recent version or alternative reference approved by the NC EMC. 	X X X X X X X		

Art. XVI. FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION**(e) Additional Setback Requirements for Specific Water Pollution Hazards**

The following activities are designated as potential water pollution hazards, and must be set back from any stream or waterbody by the required buffer width provided in 15-269.3 or the distance indicated below, whichever is greater:

Activity	Setback
Above or below ground storage of hazardous substances, petroleum or biofuels	150 feet
Animal feedlot operations	250 feet
Land application of biosolids	100 feet
Solid waste landfills or junkyards	300 feet

(f) (REPEALED 2/21/12)

(g) No new lot may be created through a major or minor subdivision process that would be undevelopable under the provisions of this part because of the amount or dimensions of protective buffer land included in it, unless such lot has already been developed, or it plainly appears that such lot is intended to be devoted to permanent open space use.

(h) Areas set aside as protective stream buffers as required by this part may be counted towards required open space as set out in Sections 15-198, so long as they meet all the provisions of that section.

(i) Nothing in this part shall prevent a single family residence (including a mobile home) from being located within the required protective stream buffer areas if such home: 1) replaces a home that had been located within such buffer prior to the effective date of this part and is located on the same location as the previous home; or 2) is located on a mobile home pad or foundation that was in existence on the effective date of this part.

(j) Nothing in this part shall prevent the expansion of an existing single family detached residence (including an attached garage) into any buffer area that adjoins an ephemeral stream, if and to the extent that such area was not a regulated stream buffer under the provisions of this chapter in effect prior to the effective date of this section.

Section 15-269.6 Determination of “No Practical Alternatives”

(a) Persons who wish to undertake uses designated as allowable or allowable with mitigation under Section 15-269.5 or wish to meet a mitigation requirement provided under Section 15-269.7(g) shall submit a written request to the permit issuing authority for a “no practical alternatives” determination. The applicant shall certify that the criteria identified in subsection (b) are met and may submit any information deemed relevant to the permit issuing authority determination, in addition to the plans and other information submitted as part of the application for a permit under Article IV of this chapter.

(b) The permit issuing authority shall make a “no practical alternatives” determination if, after reviewing the project plans and any other applicable information, it concludes that:

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- (1) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality, and;
 - (2) Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- (c) Requests for a “no practical alternatives” determination shall be reviewed and either approved or denied. The permit issuing authority shall issue the decision in writing.
- (d) If the “no practical alternatives” determination is issued in the context of a zoning permit, then the determination is to be made within 60 days of the submission of a completed application, unless:
- (1) The applicant agrees, in writing, to a longer period;
 - (2) The local government determines that the applicant has failed to furnish requested information necessary to the local government's decision;
 - (3) The applicant refuses access to its records or premises for the purpose of gathering information necessary to the local government's decision.
- (e) Any appeals of determinations regarding determinations of “no practical alternatives” shall be referred to the Director of DWQ. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

Section 15-269.7 Mitigation for Water Quality Buffers (REWRITTEN 5/22/12)

- (a) **PURPOSE.** The purpose of this section is to set forth the mitigation requirements for water quality buffer protection in relation to either a use shown in Section 15-269.5(d) as “allowable with mitigation” or a use for which a variance has been granted pursuant to Section 15-92(j).
- (b) **THE AREA OF MITIGATION.** Staff shall determine the required area of mitigation, which shall apply to all mitigation options identified in this section, according to the following:
- (1) The impacts in square feet to each zone of the buffer shall be determined by adding the area of the footprint of the activity causing the impact to the riparian buffer, including any clearing and grading within the buffer necessary to accommodate other activities, and the area of any ongoing maintenance corridors within the buffer associated with the activity.
 - (2) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in subsection (b)(1) to each zone of the riparian buffer:
 - a. Impacts to Zone one of the riparian buffer shall be multiplied by three;

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- b. Impacts to Zone two of the riparian buffer shall be multiplied by one and one-half.

(c) **THE LOCATION OF MITIGATION.** The mitigation effort shall be located within the Town's planning jurisdiction, and as close to the location of the impact as feasible.

(d) **OPTIONS FOR MEETING THE MITIGATION DETERMINATION. (AMENDED 5/22/12)**

- (1) For impacts to buffers on intermittent and perennial streams, payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund (pursuant to 15A NCAC 02B .0269, Jordan Water Supply Nutrient Strategy: Riparian Mitigation Fees to the NC Ecosystem Enhancement Program), contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank so long as the mitigation programs alternative to the Riparian Buffer Restoration Fund comply with the most current banking requirements of the US Army Corps of Engineers and the most current applicable trading criteria associated with water quality mitigation. For impacts to ephemeral streams, payment may be made only to the Town's Water Quality Enhancement Fund.
- (2) Donation of real property or of an interest in real property pursuant to subsection (f) of this Section;
- (3) Riparian buffer enhancement, or riparian buffer restoration. This shall be accomplished by the applicant after submittal and approval of a restoration plan pursuant to subsection (g) of this Section.

(e) **PAYMENT TO THE WATER QUALITY ENHANCEMENT FUND.** Persons who choose to satisfy their mitigation determination by paying a compensatory mitigation fee to the Water Quality Enhancement Fund as allowed here shall use the following procedure:

- (1) The Town shall establish annually, and include on the Miscellaneous Fees and Charges Schedule, a per square foot buffer mitigation fee. The fee shall be based upon a reasonable estimate of the per square foot cost of accomplishing riparian buffer restoration.
- (2) The amount of the compensatory mitigation fee due shall be determined by multiplying the area in square feet of mitigation calculated in accordance with subsection (b) by the per square foot buffer mitigation fee.
- (3) The required fee shall be submitted to the Town prior to construction plan approval.

(f) **DONATION OF PROPERTY.** Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property to the Town shall meet the following requirements:

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- (1) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund, the Water Quality Enhancement Fund, or another alternative, private mitigation bank. The value of the property interest shall be determined by an appraisal performed in accordance with subsection (f)(4)d of this Section. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee, the applicant shall pay the remaining balance due.
- (2) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.
- (3) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:
 - a. The property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by the NC Division of Water Quality.
 - b. The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration.
 - c. The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water.
 - d. The size of the restorable riparian buffer on the property to be donated shall equal or exceed the acreage of riparian buffer required to be mitigated under the mitigation responsibility determined pursuant to Item (b) of this Section.
 - e. The property shall not require excessive measures for successful restoration, such as removal of structures or infrastructure. Restoration of the property shall be capable of fully offsetting the adverse impacts of the requested use.
 - f. The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation.
 - g. The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and land acquisition costs.
 - h. The property shall not contain any building, structure, object, site, district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended.

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- i. The property shall not contain any hazardous substance or solid waste.
 - j. The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations.
 - k. The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort.
 - l. The property shall not have any encumbrances or conditions on the transfer of the property interests.
- (4) At the expense of the applicant or donor, the following information shall be submitted to the Town with any proposal for donations or dedications of interest in real property:
- a. Documentation that the property meets the requirements laid out in subsection (f)(3) of this Section;
 - b. USGS Survey 1:24,000 scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;
 - c. A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;
 - d. A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and
 - e. A title certificate from a licensed NC attorney.
- (5) The deed conveying the real property interest must be delivered to the Town prior to final plat approval (for mitigation that is required in connection with a subdivision) or to the issuance of a certificate of occupancy (for mitigation that is required in connection with an unsubdivided development) **(AMENDED 5/22/12).**

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(g) **RIPARIAN BUFFER RESTORATION OR ENHANCEMENT.** Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

- (1) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:
 - a. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to subsection (b) of this Section; or
 - b. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to subsection (b) of this Section.
- (2) The location of the riparian buffer restoration or enhancement shall comply with the requirements in subsection (d) of this Section.
- (3) The width of the riparian buffer restoration or enhancement site shall comply with Section 15-269.3 as measured horizontally on a line perpendicular to the surface water.
- (4) The applicant shall submit a restoration or enhancement plan for approval. The restoration or enhancement plan shall contain the following:
 - a. A map of the proposed restoration or enhancement site;
 - b. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
 - c. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;
 - d. A fertilization plan; and
 - e. A schedule for implementation.
- (5) Within one year after the permit issuing authority has approved the restoration or enhancement plan, the applicant shall present proof that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of the riparian buffer protection program.
- (6) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal and other water quality enhancement functions.
- (7) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

Art. XVI. FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND WATERSHED PROTECTION

(h) The Town may determine that the option described in 15-269.7(e) does not apply to a public utility as defined in this Article if the mitigation options specified above in 15-269.7(f) and (g) are found to not be feasible.

Section 269.8 Permits and Enforcement of Buffer Requirements.

Like the other requirements of this chapter, the provisions of Part III of Article XVI (water quality buffers) shall ordinarily be enforced by requiring compliance as development permits (i.e., zoning, class A or class B special use, ~~or conditional use~~ permits) are issued. Accordingly, a determination as to whether a proposed disturbance of a buffer is exempt, allowable, or allowable with mitigation will ordinarily be made in the context of the review process for such a development permit. To the extent that the activities identified in the Table of Exempt and Allowable Activities (set forth in Subsection 15-269.5(d) above) are proposed to be conducted or undertaken under circumstances where no such development permit is likely to be required (e.g., archeological activities or the installation of playground equipment), such activities may not be conducted or undertaken until a buffer disturbance permit has been issued by the zoning administrator. Such permit shall be issued if the administrator concludes, based upon the information submitted with the application for such permit, that the proposed disturbance will be consistent with the requirements of this article.

ARTICLE XVIII

PARKING

Section 15-290 Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.

- (1) **CIRCULATION AREA.** That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.
- (2) **DRIVEWAY.** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.
- (3) **GROSS FLOOR AREA.** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- (4) **LOADING AND UNLOADING AREA.** That portion of the vehicle accommodation area used to satisfy the requirements of Section 15-300.
- (5) **PARKING AREA AISLES.** That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces. **(AMENDED 2/4/86)**
- (6) **PARKING SPACE.** A portion of the vehicle accommodation area set for the parking of one vehicle.
- (7) **VEHICLE ACCOMMODATION AREA.** That portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.
- (8) **VEHICLE STORAGE AREA.** That portion of a vehicle accommodation area used in connection with a 9.200 or 9.400 classification use as a place to park vehicles temporarily while they are waiting to be worked on or pending the pick-up of such vehicles by their owners.

Section 15-291 Number of Parking Spaces Required.

(a) Subject to Section 15-292.1, all developments shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. In addition, all 9.200 and 9.400 classification uses shall provide sufficient vehicle storage area to accommodate the number of vehicles likely to be on the premises awaiting work or pending removal of their owners. **(AMENDED 2/4/86; 5/18/04)**

(b) The presumptions established by this article are that: (i) a development must comply with the parking standards set forth in subsection (g) to satisfy the requirement stated in subsection (a), and (ii) any development that does meet these standards is in compliance. However, the Table of Parking Standards is only intended to establish a presumption and should be flexibly administered, as provided in Section 15-292.

(c) Uses in the Table of Parking Requirements [subsection (g)], are indicated by a numerical reference keyed to the Table of Permissible Uses, Section 15-146. When determination of

Art. XVIII PARKING

the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(d) With respect to any parking lot that is required to be paved (see Section 15-296):
(**AMENDED 9/13/83**)

- (1) The number of parking spaces required by this article may be reduced by a total of one space if the developer provides a bike rack or similar device that offers a secure parking area for at least five bicycles.
- (2) In non-residential districts, the number of parking spaces required by this article may be reduced by one space for each motorcycle pad provided, up to a total of five percent of the required number of spaces.

(e) Whenever a building is constructed with the intention that it be used in whole or in part for use classification 2.120, 2.220, 2.320, 3.120, or 3.220, the building shall be constructed on the lot in such a manner that sufficient usable space remains on the lot to add the additional parking spaces that would be required to convert the use of the building entirely to use classification 2.110, 2.210, 2.310, 3.110, or 3.210. In addition, whenever a developer proposes to construct a building to be used for purposes that require a lesser number of parking spaces than other uses to which the building might well be put at some future date, the administrator shall send to the developer a certified letter explaining that sufficient space should be left on the lot to add parking spaces at a later time if required. (**AMENDED 2/4/86**)

(f) The ~~Council Board~~ recognizes that the Table of Parking Requirements set forth in subsection (g) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide. In addition, the ~~Town Council Board of Aldermen~~ may authorize a reduction of up to 25 percent in the parking requirement when approving a Village Mixed Use Master Plan or ~~Class A Special Conditional~~-Use Permit or an Office/Assembly development ~~Class A Special Conditional~~ Use Permit. Land necessary to meet the full, presumptive, parking requirement must be identified during the plan approval process and must be reserved should the need for additional parking arise in the future. (**AMENDED 05/25/99**)

(g) Table of Parking Requirements (**AMENDED 11/28/06**)

PART I.	
USE	PARKING REQUIREMENT (EXCEPT AS NOTED IN PART II OF THIS TABLE)
1.100	2 spaces per dwelling unit plus one space per room rented out in each dwelling unit (see Accessory Uses, Section 15-150). These required spaces shall be in addition to any space provided within an enclosed or partially enclosed garage. (AMENDED 2/24/84; 08/27/96)
1.200	2 spaces for each dwelling unit, except that one bedroom units require only one space.
1.300	With respect to multi-family units located in buildings where each dwelling unit has an entrance and living space on the ground floor, the requirement shall be 1½ spaces

USE	<u>PART I.</u> <u>PARKING REQUIREMENT (EXCEPT AS NOTED IN PART II OF THIS TABLE)</u>
	for each one bedroom unit and 2 spaces for each unit with two or more bedrooms. Multi-family units limited to persons of low- or moderate-income or the elderly require only 1 space per unit. All other multi-family units require 1 space for each bedroom in each unit plus 1 additional space for every four units in the development. (AMENDED 5/10/83)
1.340	1 space per every four dwelling units. (AMENDED 01/11/00)
1.350	2 spaces for each dwelling unit, except that one bedroom units require only one space. (AMENDED 10/22/19)
1.410 1.420	1 space for each bedroom.
1.430	1 space for each room to be rented.
1.510	1 space per room plus additional spaces for restaurant or other facilities. (AMENDED 11/28/06)
1.61 1.62 1.63	3 spaces for every five beds except for uses exclusively servicing children under 16, in which case 1 space for every 3 beds shall be required.
1.900	4 spaces for offices of physicians or dentists; 2 spaces for attorneys; 1 space for all others.
1.910	4 spaces for offices of physicians or dentists; 2 spaces for attorneys; 1 space for all others, plus one space for each non-resident employee. (AMENDED 10/22/19)
2.110	1 space per 200 square feet of gross floor area.
2.120 2.130	1 space per 400 square feet of gross floor area.
2.140	1 space per 200 square feet of gross floor area plus reservoir lane capacity equal to three spaces per window. (AMENDED 2/4/86)
2.150	1 space per 200 square feet in the portion of the building to be used for retail sales plus 1 space for every two employees on the maximum shift. (AMENDED 04/15/97)
2.210	1 space per 200 square feet of gross floor area. (AMENDED 2/4/86)
2.220 2.230	1 space per 400 square feet of gross floor area.
2.240 2.250	1 space per 200 square feet of gross floor area plus reservoir lane capacity equal to three spaces per window. (AMENDED 10/23/18)
2.310	1 space per 200 square feet of gross floor area.
2.320	1 space per 400 square feet of gross floor area.
2.330	1 space per 400 square feet of gross floor area.
3.110	1 space per 200 square feet of gross floor area.

USE	<u>PART I.</u> PARKING REQUIREMENT (EXCEPT AS NOTED IN PART II OF THIS TABLE)
3.120	1 space per 400 square feet of gross floor area.
3.130 3.131	1 space per 150 square feet of gross floor area. (AMENDED 10/23/18)
3.150	1 space per 200 square feet of ground floor area. (AMENDED 06/20/95)
3.210	1 space per 200 square feet of gross floor area.
3.220	1 space per 400 square feet of gross floor area.
3.230	1 space per 200 square feet of area within main building plus reservoir lane capacity equal to five spaces per window (10 spaces if window serves two stations).
3.250	3 spaces arranged in close proximity to this use. (AMENDED 09/01/92)
3.260	1 space for every full time employee; 1 space for every 2 part time employees; 1 space for every 3 volunteers; 1 space for every 20 seats in the portion of the building used for dining and 1 space for every 100 square feet of the building dedicated toward meeting or educational space (depending on programming needs, this requirement may apply to the kitchen and dining spaces). (AMENDED 03/22/16)
4.100 4.200	1 space for every two employees on the maximum shift except that in the B-1-G, B-2, B-3, and B-4 zones, such uses may provide 1 space per 200 square feet of gross floor area.
5.110	1.75 spaces per classroom in elementary schools 5.0 spaces per classroom in high schools.
5.120	1 space per 100 square feet of gross floor area.
5.130	1 space per 150 square feet of gross floor area.
5.200	1 space per every four seats in the portion of the church building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses, plus 1 space for every 200 square feet of gross floor area designed to be used neither for services nor residential purposes.
5.310 5.320	1 space per 300 square feet of gross floor area.
5.400	1 space per 300 square feet of gross floor area.
6.110	1 space for every 3 persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion -- example tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation.
6.120 6.130	1 space for every four seats.

USE	<u>PART I.</u> <u>PARKING REQUIREMENT (EXCEPT AS NOTED IN PART II OF THIS TABLE)</u>
6.140	1 space for every 200 square feet of gross floor area within enclosed buildings (AMENDED 2/2/88)
6.210 6.220	1 space per 200 square feet of area within enclosed buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
6.230	Miniature golf course – 1 space per 300 square feet of golf course area plus 1 space per 200 square feet of building gross floor area; Driving range -- 1 space per tee plus 1 space per 200 square feet in building gross floor area; Par Three Course -- 2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area.
6.240	1 space per horse that could be kept at the stable when occupied to maximum capacity.
6.250	1 space for every three seats.
6.260	1 space per speaker outlet.
7.100	2 spaces per bed.
7.200	3 spaces for every 5 beds
7.300 7.400	1 space for every two employees on maximum shift.
8.100	1 space per 100 square feet of gross floor area. (AMENDED 2/24/87)
8.200	1 space for every four outside seats. (AMENDED 2/24/87)
8.300	1 space for each drive-in service spot. (AMENDED 2/24/87)
8.400	Reservoir lane capacity equal to five spaces per drive-in window. (AMENDED 2/24/87)
8.500	Spaces to be determined according to projected level of carry-out service. (AMENDED 2/24/87)
8.600	1 space per 200 square feet of floor area plus one space per employee engaged in delivery service. (AMENDED 2/24/87)
8.800	1 space per 100 square feet of performing arts space plus additional spaces for associated and accessory uses as indicated in this table, either Part I or Part II, whichever is less. (AMENDED 11/27/18)
9.100	1 space per 200 square feet of gross floor area plus an extra 810 square foot vehicle storage area per repair bay.
9.200	2 regular spaces per bay plus a 1,540 square foot vehicle storage area per bay. (AMENDED 2/4/86)
9.300	1 space per 200 square feet of gross floor area of building devoted primarily to gas sales operation; plus sufficient parking area to accommodate 2 vehicles per pump without interfering with other parking spaces.

USE	<u>PART I.</u> <u>PARKING REQUIREMENT (EXCEPT AS NOTED IN PART II OF THIS TABLE)</u>
9.400	2 regular spaces per bay and office plus an 810 square foot vehicle storage area per bay. (AMENDED 2/4/86, 10/20/92)
9.500	Conveyer type--1 space for every three employees on the maximum shift plus reservoir capacity equal to five times the capacity of the washing operation. Self-service type--2 spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall.
10.210 10.220	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside).
11.000	1 space per 200 square feet of gross floor area.
12.100 12.200	1 space per 200 square feet of gross floor area.
13.100 13.200 13.300 13.400	1 space per 200 square feet of gross floor area.
14.100 14.200 14.300 14.400	1 space for every 2 employees on maximum shift.
15.100 15.200	1 space per 200 square feet of gross floor area.
15.300	1 space for every 2 employees on maximum shift.
15.400	1 space per 100 square feet of gross floor area.
15.500	1 space per 400 square feet of gross floor area of the collection facility plus 1 space per employee or attendant. (AMENDED 6/28/83)
16.100	1 space per 200 square feet of gross floor area plus reservoir lane capacity equal to three spaces per window.
16.200	1 space per 200 square feet of gross floor area.
19.000	1 space per 1,000 square feet of lot area used for storage, display, or sales. (AMENDED 5/12/81)
20.000 21.000	1 space per 200 square feet of gross floor area.
22.000	1 space for every employee plus 1 space per 250 square feet of floor area used for day care in addition to spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses.
23.000	1 space per 200 square feet of gross floor area. 1 space per room plus additional space for restaurant or other facilities.

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<u>PART II. (APPLIES TO PROPERTIES LOCATED WITHIN THE B-1(C), B-1(G), AND B-2 ZONING DISTRICTS)</u>	
<u>USE</u>	<u>PARKING REQUIREMENT</u>
1.100	1 per bedroom and no more than 2
1.200	1 per bedroom and no more than 2
1.300	1 per bedroom and no more than 2
1.500	.75 per room (Note: This does not include parking for associated conference and/or restaurant facilities.)
2.000	1 per 300 square feet of gross floor area
3.000	1 per 400 square feet of gross floor area
<u>PART I.</u>	
<u>USE</u>	<u>PARKING REQUIREMENT (EXCEPT AS NOTED IN PART II OF THIS TABLE)</u>
34.000	1 space per room plus additional spaces for restaurant or other facilities. 2 spaces per main dwelling unit plus 1 space per room. (AMENDED 06/22/99; 11/28/06)
34.100	
34.200	

(AMENDED 02/04/97; 01/11/00; 5/18/04)

(h) Bicycle parking shall be provided in accordance with the provisions of this subsection by all developments that fall within the use classifications shown in the following Table of Bicycle Parking Standards.

When determination of the number of spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less shall be disregarded, while a fraction in excess of one-half shall be counted as one space.

<u>TABLE OF BICYCLE PARKING STANDARDS</u> (AMENDED 11/27/18)	
<u>Use</u>	<u>Bicycle Parking Requirement</u>
1.300	1.5 spaces per unit
2.100	1 space per 10 presumptively required auto spaces, with a minimum of 5 spaces
2.200	
2.300	
3.100	1 space per 10 presumptively required auto spaces, with a minimum of 5 spaces
3.200	
3.260	1 space for every 5 seats in the portion of the building used for dining
5.100	1 space per 10 students plus 1 space per 10 employees

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6.200	1 space per 4 presumptively required auto spaces
8.100 8.200 8.800	1 space per 10 presumptively required auto spaces, with a minimum of 5 spaces
10.100	1 space per 10 auto spaces, with a minimum of 5 spaces
34.100	1 space per 5 rooms, up to 50 rooms; 1 space per 10 rooms above 50 rooms

(AMENDED 6/19/12; 3/22/16)

Section 15-292 Flexibility in Administration Required (AMENDED 10/23/18)

(a) The ~~Council Board~~ recognizes that due to the particularities of any given development, the inflexible application of the parking standards set forth in Subsection 15-291(g) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation results in a waste of money as well as a waste of space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Section 15-191, the permit-issuing authority may permit deviations from the presumptive requirements of Subsection 15-291(g) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in subsection 15-291(a). In addition, that same flexible approach shall be followed with respect to the vehicle storage area requirements set forth in the preceding table.

(a1) The ~~Council Board~~ also recognizes that due to the particularities of any given development, the inflexible application of bicycle parking standards set forth in Subsection 15-291(h) and 15-295.1 may result in a development either with inadequate parking space or parking space in excess of its needs. Therefore, the permit-issuing authority may permit deviations from the presumptive requirements of Subsection 15-291(h) and 15-295.1 may require more or less bicycle parking subject to the criteria in Subsection 15-292(b1).

(b) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in Subsection 15-291(g) when it finds that:

- (1) A residential development is irrevocably oriented toward the elderly;
- (2) A residential development is located on a bus line, is located in close proximity to the central business district, and is committed to a policy of placing restrictions on the vehicle ownership of its tenants.
- (3) A business is primarily oriented to walk-in trade.

(b1) The permit-issuing authority may allow deviations from the bicycle parking requirements set forth in Subsection 15-291(h) when it finds at least one of the following:

- (1) A residential development is irrevocably oriented toward the elderly, and or persons with disabilities; or

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- (2) A residential or commercial development is located on a lot, constrained by size or topography, such that the installation of the presumptive number bicycle parking spaces that comply with the Design Standards for Bicycle Parking in Section 15-295.1 is impracticable. In those cases, the development shall instead provide the maximum number of bicycle parking spaces practicable.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in subsections 15-291(g), 15-291(h) and 15-295.1, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by subsections 15-291(g) and 15-291(h) for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Article XX.

Section 15-292.1 Payment of Fee In Lieu of Providing Parking Spaces

(a) With respect to properties within the B-1(C), B-1(G), and B-2 districts that are developed for commercial purposes, the permit issuing authority may authorize the developer to forego the construction of parking spaces otherwise required on the developer's property pursuant to the provisions of Section 15-291 of this Article for commercial uses if (i) the permit issuing authority finds that the parking needs of such development can be met by public parking facilities that are located or expected to be constructed within a reasonable time within reasonable proximity to the proposed development, and (ii) the developer pays to the town for each such space that is not constructed a fee in lieu of providing that space in an amount determined as provided in subsection (b) of this section. This fee shall be paid before an occupancy permit is issued to the development, unless the permit issuing authority by condition establishes another time.

(b) The amount of the fee authorized by this section shall be determined by estimating the cost of providing a paved parking space (including land and improvement costs) that meets the requirements of this Article. This determination shall be made annually and the fee shall be included in the Miscellaneous Fees and Charges Schedule adopted by the ~~Town Council~~**Board of Aldermen**.

(c) Any fees collected in accordance with this section shall be reserved and used exclusively to meet the purposes for which they have been obtained as specified above in subsection (a).

Section 15-293 Parking Space Dimensions (AMENDED 9/13/83)

(a) Subject to subsection (b) and (c), parking spaces shall contain a rectangular area at least eight and one-half feet wide and eighteen feet long. Lines demarcating parking spaces may be

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drawn at various angles in relation to curbs or aisles, as long as the parking spaces so created contain within them the rectangular area required by this section. **(AMENDED 2/5/08)**

(b) In parking areas containing ten or more spaces, up to 40% of the parking spaces may be set aside for the exclusive use of compact cars, provided the compact car area is designated for exclusive use by compact cars, and that adequate signs are provided designating and informing the public of the exclusive use. A compact parking space shall contain a rectangular area eight feet wide and fifteen feet long. **(AMENDED 4/24/12)**

(c) Wherever parking consists of spaces set aside for parallel parking, one foot shall be added to the minimum required width, and three feet to the minimum required length.

(d) Motorcycle pads shall contain a rectangular area at least four feet wide and eight feet long. Spaces shall be located at either end of parking aisles and shall have, centered, a concrete or metal strip one square foot in area to accommodate the use of kick stands.

Section 15-294 Required Width of Parking Area Aisles (AMENDED 5/18/04)

(a) Subject to subsections (b) and (c) parking area aisles shall have a minimum width between parking spaces as follows: **(AMENDED 6/26/84)**

STANDARD, OR NON-SUBCOMPACT AREA PARKING ANGLE				
 AISLE TYPE	0°	45°	60°	90°
ONE WAY	13	13	18	24
TWO WAY	19	21	23	24

(b) In parking areas where subcompact spaces are provided pursuant to 15-293(b) of this ordinance, parking aisle spaces adjoining subcompact spaces shall have a minimum width between such parking spaces as follows:

STANDARD AREA PARKING ANGLE				
 AISLE TYPE	0°	45°	60°	90°
ONE WAY	13	13	14	20
TWO WAY	19	21	23	24

(c) The width of a parking aisle serving 90° angle parking may be reduced to eighteen feet if (i) not more than ten spaces are to be served by an aisle with such reduced width, and (ii) the aisle “dead ends”, i.e., is not used as an access way to other areas. **(AMENDED 6/26/84)**

(d) Driveways shall be not less than ten feet in width for one way traffic and eighteen feet in width for two way traffic, except that ten foot wide driveways are permissible for two way traffic

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when (i) the driveway is not longer than fifty feet, (ii) it provides access to not more than ten spaces, and (iii) sufficient turning space is provided so that vehicles need not back into a public street. **(AMENDED 6/26/84)**

(e) Notwithstanding the other provisions of this section, the permit issuing authority may allow the use of geometric standards other than those specified in this section if the permit issuing authority finds that (i) the plans for the vehicle accommodation area are sealed by a registered engineer with recognized expertise in parking facility design, and (ii) the alternative design will satisfy off-street parking requirements as adequately as would a facility using the specifications set forth in this section and would otherwise be consistent with public safety.

Section 15-295 General Design Requirements (AMENDED 5/18/04)

(a) Vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units.

(b) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(c) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(d) Vehicle storage areas are not required to observe any particular configuration but shall be so located and designed so that the entire amount of required square footage of such areas can be used for the purpose intended without creating any substantial danger of injury to persons or property and without impeding vehicular movement in the adjacent street. **(AMENDED 2/4/86)**

(e) To the extent practicable, parking shall not be allowed between a building façade and a street right-of-way in the B-1(c), B-1(g), and B-2 zoning districts.

Section 15-295.1 Design Standards for Bicycle Parking (AMENDED 6/19/12; 11/19/13)

(a) Bicycle parking may be located in any parking area or in other locations that are easily accessible, clearly visible from the entrance it serves, and do not impede pedestrian or motorized vehicle movement into or around the site. At least 50 percent of bicycle parking shall be sheltered. Designating space for bicycle parking within buildings is an option to consider when feasible.

(b) When a percentage of the required motorized vehicle spaces are provided in a structure, an equal percentage of the required bicycle spaces shall be located inside that structure, unless an equivalent number of other accessible covered bicycle parking spaces are located elsewhere on the site.

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(c) Where bicycle parking facilities are not clearly visible to approaching cyclists, signs shall be posted to direct cyclists to the facilities.

(d) Facilities shall provide at least a 30 inch clearance from the centerline of each adjacent bicycle rack/support structure and at least 24 inches from walls or other obstructions.

(e) An aisle or other space shall be provided for bicycles to enter and leave the facility. The aisle shall have a width of at least four feet to the front or the rear of a standard six-foot bicycle parked in the facility.

(f) Each bicycle parking space shall be sufficient to accommodate a bicycle at least six feet in length and two feet wide. Overhead clearance shall be at least seven feet.

(g) Bicycle parking spaces shall be clearly marked as such and shall be separated from motorized vehicle parking by some form of physical barrier designed to protect a bicycle from being hit by a motorized vehicle.

(h) Each bicycle parking space shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using either a chain and padlock or a U-lock. The frame shall support a bicycle in a stable position without damage to the frame, wheels, or components. The rack designs commonly known as “inverted U”, “A”, and “post-and-loop” are preferred types. The “wave”, “toast”, and “comb” racks, as described in Chapter 7, Figure 7-60, of the Comprehensive Bicycle Transportation Plan, are discouraged and shall not count toward fulfillment of the requirements in Sec. 15-291(h). **(AMENDED 11/19/13)**

(i) Bicycle racks should be designed and constructed according to Design Guidelines of the Carrboro Bicycle Plan.

Section 15-296 Vehicle Accommodation Area Surfaces

(a) Subject to subsections (e), (f), (g), and (h) vehicle accommodation areas that (i) include lanes for drive-in windows; (ii) are required to contain more than 1,000 square feet of vehicle storage area; or (iii) contain parking areas that are required to have more than ten parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust. Specifications for surfaces meeting the standard set forth in this subsection are contained in Appendix D. **(AMENDED 2/4/86; 3/4/86; 6/26/90; 5/6/03)**

(b) Vehicle accommodation areas that are not provided with the type of surface specified in subsection (a) shall be graded and surfaced with crushed stone, gravel, or other suitable material (as provided in the specifications set forth in Appendix D) to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no

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driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in subsection (a) for a distance of fifteen feet back from the edge of the paved street. This subsection shall not apply to single-family residences, duplexes, multi-family residences consisting of two dwelling units, homes for the handicapped or infirm, or other uses that are required to have only one or two parking spaces.

(c) Parking spaces in areas surfaced in accordance with subsection (a) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (b) shall be demarcated whenever practicable.

(d) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

(e) Vehicle accommodation areas that constitute 10.100 classification uses (independent automobile parking lots or garages) and that contain more than ten parking spaces shall meet the surfacing requirements set forth in subsection (a) unless it clearly appears that the 10.100 classification use is intended to be temporary (not exceeding four years). In no event may the 10.100 use continue for more than four years unless the lot is paved in accordance with this subsection. Notwithstanding the provisions of Article VIII (Nonconforming Situations), (i) any parking lot made nonconforming by this subsection on its effective date shall be brought into compliance within twelve months after the effective date, and (ii) unpaved temporary 10.100 uses in operation on the effective date of this subsection must be paved or terminated within one year thereafter or four years from the initial use of such lot, whichever comes later. **(AMENDED 3/11/86)**

(f) The paving requirement of subsection (a) shall not apply to parking areas owned or leased by the town that are used for public parking for a period of time less than four years. If such areas are used for parking for a period in excess of four years, then such areas must be paved if otherwise required under the standards set forth in subsection (a). **(AMENDED 3/4/86)**

(g) The paving requirement of subsection (a) shall not apply to any lot within the B-1(c) zoning district. However, lots that would otherwise be required to be paved but for this exception shall be required to comply with the shading provisions set out in Subsection 15-317. **(AMENDED 6/26/90)**

(h) When any tract of land is developed under circumstances requiring the issuance of a class A or class B special ~~or conditional~~ use permit, and paving is required per Section 15-296(a), the vehicle overhang area located behind a parking stop may be unpaved as shown in Appendix D-3. **(AMENDED 5/6/03)**

Section 15-297 Joint Use of Required Parking Spaces (AMENDED 5/18/04)

(a) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

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(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.

(c) With respect to properties within the B-1(c), B-1(g), and B-2 districts where two or more use classifications on the same site have two or more distinct peak parking usage periods, the number of parking spaces required may be reduced to the amount that results from dividing the total number of spaces otherwise required by the following ratios:

Use Classifications	Reduction Ratio
2.000 and 3.000 uses	1.2
2.000 and 1.500 uses	1.3
2.000 and 1.100/1.200/1.300 uses	1.2
3.000 and 1.500 uses	1.7
3.000 and 1.100/1.200/1.300	1.4
1.500 and 1.100/1.200/1.300	1.1

(d) If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of Section 15-298 are also applicable.

Section 15-297.1 Creation of Public Parking Lots from Private Parking Areas (AMENDMENT 4/15/03)

Notwithstanding any other provision of this chapter, within the B-1(c) and B-1(g) zoning districts:

- (1) The town may acquire through lease or purchase portions of one or more lots and create out of the area so acquired an independent parking lot (use classification 10.100).
- (2) Acquisition by the town and use of portions of lots as provided in this section shall not be regarded as creating a non-conforming situation with respect to parking on such lots or making any existing situation more non-conforming with respect to parking.
- (3) When the town acquires and uses portions of lots as provided in this section, the number of spaces within the public parking lot so created that are attributable to the portion of the parking lot acquired from each "donor" lot shall be regarded as still being located on each "donor" lot for purposes of determining whether each "donor" lot complies with the parking requirements of this article.

Section 15-298 Satellite Parking

(a) If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to in this section as “satellite” parking spaces.

(b) All such satellite parking (except spaces intended for employee use or spaces required in relation to use 8.800, Performing Arts Space) may be located within 1000 feet of the public entrance of a principal building housing the use associated with such parking. (AMENDED 11/27/18)

(c) The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number or parking spaces.

(d) Subject to subsection (e), persons who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article. (AMENDED 3/11/86)

(e) Satellite parking may be obtained from an independent automobile parking lot or garage [use classification 10.100, see definition subdivision 15-15(32.1)]. However, if a separate lot is owned by an enterprise needing off-site parking and is leased by that enterprise for a period of more than four years (including automatic renewals or renewal options) and is used as a parking lot by that enterprise (and others may lawfully be excluded), then such off-site lot shall be regarded as part of the lot on which the enterprise is located for purposes of the paving and other design requirements of this chapter. (AMENDED 3/11/86)

Section 15-299 Special Provisions for Lots With Existing Buildings and Lots within Neighborhood Preservation Districts (AMENDED 9/26/89)

(a) Notwithstanding any other provisions of this chapter, whenever (i) there exists a lot with one or more structures on it constructed before the effective date of this chapter, and (ii) a change in use to other than a performing arts space (use classification 8.800) that does not involve any enlargement of a structure is proposed for such lot, and (iii) the parking requirements of Section 15-291 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Section 15-291 to the extent that (i) parking space is practicably available on the lot where the development is located, and (ii) satellite parking space is reasonably available as provided in Section 15-298. However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available. (AMENDED 11/27/18)

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(b) Whenever the neighborhood preservation district commission determines that the number of parking spaces otherwise required by this article for a development within the neighborhood preservation district would render such development incongruous with the special character of the district, it may recommend that the permit-issuing authority wholly or partially waive such parking requirements. Upon such recommendation, the permit-issuing authority may authorize a lesser number of parking spaces than that presumptively required under this article if it concludes that such deviation (i) will not create problems due to increased on-street parking and (ii) will not constitute a threat to public safety. **(AMENDED 09/26/89)**

Section 15-300 Loading and Unloading Areas.

(a) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

GROSS LEASABLE AREA OF BUILDING	NUMBER OF SPACES WITH MINIMUM DIMENSIONS OF 12' x 55' AND OVERHEAD CLEARANCE OF 14' FROM THE STREET GRADE
1,000 - 19,999	1
20,000 - 79,999	2
80,000 - 127,999	3
128,000 - 191,999	4
192,000 - 255,999	5
256,000 - 319,999	6
320,000 - 391,999	7
Plus one (1) for each additional 72,000 square feet or fraction thereof.	

(c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right-of-way, and (ii) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(d) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

Section 15-301 No Parking Indicated Near Fire Hydrants.

Whenever a fire hydrant is located adjacent to any portion of a vehicle accommodation area required to be paved under subsection 15-296(a), the pavement shall be clearly marked to indicate that parking within fifteen feet of such hydrant is prohibited. (AMENDED 4/27/82)

Section 15-302 Limitation on the Total Lot Coverage Devoted to Surface Parking

No development approved after the effective date of this section may construct more than 110 percent of the number of parking spaces determined by the permit issuing authority to be necessary to satisfy the requirements of Section 15-291.

Section 15-303 Reserved.

ARTICLE XIX

SCREENING AND TREES

PART I. SCREENING

Section 15-304 ~~CouncilBoard~~ Findings Concerning the Need for Screening Requirements.

The ~~CouncilBoard~~ finds that:

- (1) Screening between two lots lessens the transmission from one lot to another of noise, dust, and glare.
- (2) Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimal screening can provide an impression of separation of spaces, and more extensive screening can shield entirely one use from the visual assault of an adjacent use.
- (3) Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening.
- (4) The provisions of this part are necessary to safeguard the public health, safety, and welfare.

Section 15-305 General Screening Standards

Every development shall provide sufficient screening so that:

- (1) Neighboring properties are shielded from any adverse external effects of that development;
- (2) The development is shielded from the negative impacts of adjacent uses such as streets or railroads.

Section 15-306 Compliance with Screening Standards

(a) The table set forth in Section 15-308, in conjunction with the explanations in Section 15-307 concerning the types of screens, establishes screening requirements that, presumptively, satisfy the general standards established in Section 15-305. However, this table is only intended to establish a presumption and should be flexibly administered, as provided in Section 15-309.

(b) The numerical designations contained in the Table of Screening Requirements (Section 15-308) are keyed to the Table of Permissible Uses (Section 15-146), and the letter designations refer to types of screening as described in Section 15-307. This table indicates the type of screening that may be required between two uses. Where such screening is required, only

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one of the two adjoining uses is responsible for installing the screening; the use assigned this responsibility is referred to as the “servient” use in Section 15-308, and the other use is the “dominant” use. To determine which of the two adjoining uses is required to install the screening, find the use classification number of one of the adjoining uses in the servient column and follow that column across the page to its intersection with the use classification number in the dominant use column that corresponds to the other adjoining use. If the intersecting square contains a letter, then the use whose classification number is in the servient column is responsible for installing that level of screening. If the intersecting square does not contain a letter, then begin the process again, starting this time in the servient column with the other adjoining use.

(c) If, when the analysis described in subsection (b) is performed, the servient use is an existing use, but the required screening is not in place, then this lack of screening shall constitute a nonconforming situation, subject to all the provisions of Article VIII of this ordinance.

(d) Notwithstanding any other provision of this article, a multi-family development shall be required at the time of construction, to install any screening that is required between it and adjacent existing uses according to the table set forth in Section 15-308, regardless of whether, in relation to such other uses, the multi-family development is the dominant or servient use.

Section 15-307 Descriptions of Screens.

The following three basic types of screens are hereby established and are used as the basis for the Table of Screening Requirements set forth in Section 15-308.

- (1) **OPAQUE SCREEN. TYPE “A”.** A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least twenty feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetation screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstruction should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants. Suggested planting patterns that will achieve this standard are included in Appendix E.
- (2) **SEMI-OPAQUE SCREEN. TYPE “B”.** A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least twenty feet. The semi-opaque screen is intended to partially block visual contact between uses and to create a strong impression of the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetation screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field

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observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone for intermittent visual obstruction may contain deciduous plants. Suggested planting patterns which will achieve this standard are included in Appendix E.

- (3) **BROKEN SCREEN. TYPE “C”.** A screen composed of intermittent visual obstructions from the ground to a height of at least twenty feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants. Suggested planting patterns which will achieve this standard are included in Appendix E.

Section 15-308 Table of Screening Requirements (AMENDED 06/26/07)

[PLEASE REFER TO THE NEXT TEN PAGES]

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE (PROPOSED)			1.000												2.000	
			1.100					1.200	1.300	1.400	1.500	1.600	1.700	1.800	1.900	2.100
			1.111	1.112	1.113	1.121	1.122									
1.000	1.100	1.111														
		1.112														
		1.113														
		1.121														
		1.122	B	B				C				C	C	C		
	1.200															
	1.300		C	C	C	C		C				C	C	C		
	1.400		C	C	C	C		C				C	C	C		
	1.500		A	A	A	A	B	A	B	A		A	A	A	A	
	1.600											C	C	C		
	1.700		A	A	A	B	B	A	B	B		B		A	A	
	1.800															
	1.900															
2.000	2.100		A	A	A	A	B	A	B	A		A	A	A	A	
	2.200		A	A	A	A	B	A	B	A		A	A	A	A	
3.000			A	A	A	A	B	A	B	A		A	A	A	A	
4.000			A	A	A	A	A	A	A	A	A	A	A	A	A	
5.000	5.100		A	A	A	A	B	A	B	B		B	A	A	A	
	5.200		A	A	A	A	B	A	B	B		B	A	A	A	
	5.300		A	A	A	A	B	A	B	B		B	A	A	A	
	5.400		A	A	A	A	B	A	B	A		A	A	A	A	
6.000	6.100		A	A	A	A	B	A	B	A		A	A	A	A	
	6.200	6.210	A	A	A	A	A	A	A	A	B	A	A	A	A	
		6.220	B	B	B	B	B	B	C	C		C	A	A	A	
		6.230	A	A	A	A	A	A	A	A	C	A	A	A	A	
		6.240	A	A	A	A	A	A	A	A	C	A	A	A	A	
		6.250	A	A	A	A	A	A	A	A	A	A	A	A	A	
		6.260	A	A	A	A	A	A	A	A	A	A	A	A	A	
7.000			B	B	B	B	B	B	B	B		B	B	B	B	
8.000			A	A	A	A	B	A	B	A		A	A	A	A	
9.000			A	A	A	A	A	A	A	A		A	A	A	A	
10.000			A	A	A	A	A	A	A	A	B	A	A	A	A	
11.000			A	A	A	A	A	A	A	A	A	A	A	A	A	
12.000			A	A	A	A	A	A	A	A		A	A	A	A	
13.000			A	A	A	B	B	A	B	A		A	A	A	A	
14.000	14.100		B	B	B	B	B	B	B	B		B	B	B	B	
	14.200		B	B	B	B	B	B	B	B		B	B	B	B	
	14.300		A	A	A	A	A	A	A	A	A	A	A	A	A	

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

			1.000												2.000	
SERVIENT USE (PROPOSED)			1.100					1.200	1.300	1.400	1.500	1.600	1.700	1.800	1.900	2.100
			1.111	1.112	1.113	1.121	1.122									
	14.400		A	A	A	A	A	A	A	A	A	A	A	A	A	A
15.000	15.100		A	A	A	A	A	A	A	A		A	A	A	A	
	15.200		A	A	A	A	A	A	A	A	A	A	A	A	A	A
	15.300		A	A	A	A	A	A	A	A	A	A	A	A	A	A
	15.400		A	A	A	A	A	A	A	A	A	A	A	A	A	A
16.000			A	A	A	A	A	A	A	A		A	A	A	A	
17.000			A	A	A	A	A	A	A	A	A	A	A	A	A	A
18.000	18.100		A	A	A	A	A	A	A	A	A	A	A	A	A	A
	18.200		A	A	A	A	A	A	A	A	A	A	A	A	A	A
	18.300		A	A	A	A	A	A	A	A	A	A	A	A	A	A
19.000			A	A	A	B	B	A	B	A		A	A	A	A	B
20.000			A	A	A	B	B	A	B	A		A	A	A	A	
21.000	21.100		A	A	A	B	B	A	B	B		B	A	A	A	
	21.200		A	A	A	A	A	A	A	A	A	A	A	A	A	A
22.000	22.100		C	C	C	C	C	C	C	C		C	C	C	C	
	22.200		B	B	B	B	B	B	B	B	B	B	B	B	B	B
	22.300															
23.000																
24.000			A	A	A	A	A	A	A	A		A	A	A	A	
25.000			A	A	A	B	B	A	B	A		A	A	A	A	B
26.000																
34.000	34.100		A	A	A	A	B	A	B	A		A	A	A	A	
	34.200		A	A	A	A	B	A	B	A		A	A	A	A	A
STREETS																
RAILROAD			A	A	A	A	A	A	A	A	A	A	A	A	A	A

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE (PROPOSED)			2.200	3.000	4.000	5.000	5.200	5.300	5.400	6.000	6.100	6.200	6.210	6.220	6.230	6.240	6.250	6.260
1.000	1.100	1.111																
		1.112																
		1.113																
		1.121																
		1.122																
	1.200																	
	1.300																	
	1.400																	
	1.500			B		A	A	A	C			B						
	1.600																	
	1.700																	
	1.800																	
	1.900																	
2.000	2.100			C		A	A	A	C			B						
	2.200			B		A	A	A	B	C		B						
3.000						A	B	B				B						
4.000			A	A		A	A	A	A	A	B	A	C	A				
5.000	5.100																	
	5.200																	
	5.300																	
	5.400			C		A	A	A				B						
6.000	6.100			C		A	A	A	C			C						
	6.200	6.210		B		A	A	A	B	C		B						
		6.220					B	B										
		6.230	C		C	A	A	A	B	C	A	A						
		6.240	B	B		A	A	A	C	B	C	B	C					
		6.250	A	A	A	A	A	A	A	A	A	A	A	A	A			
		6.260	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
7.000						B												
8.000				C		A	A	A	C			B						
9.000				C		A	A	A	B	A		A						
10.000			B	B		B	B	B	B	B	B	A	B	B				
11.000			A	B	A	A	A	A	A	A	A	A	A	A	A	A	A	A
12.000				A		A	A	A	A	B	B	A						
13.000				B		A	A	A	C	C	C	B						
14.000	14.100																	
	14.200																	
	14.300		A	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE			2.200	3.000	4.000	5.000	5.200	5.300	5.400	6.000	6.100	6.200	6.210	6.220	6.230	6.240	6.250	6.260
(PROPOSED)																		
	14.400		A	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A
15.000	15.100			C		A	A	A					B					
	15.200		A	A		A	A	A	A	A	A	A	A	A	A	A		
	15.300		A	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A
	15.400		A	A		A	A	A	A	A	A	A	A	A	A	A		
16.000				C		A	A	A	C				B					
17.000			A	A	B	A	A	A	A	A	A	A	A	A	A	A		
18.000	18.100		A	A	C	A	A	A	A	A	A	A	A	A	A	A	A	A
	18.200		A	A	C	A	A	A	A	A	A	A	A	A	A	A	A	A
	18.300		A	A	C	A	A	A	A	A	A	A	A	A	A	A	A	A
19.000				B		A	A	A	B	C			B					
20.000						A	B	B					B					
21.000	21.100																	
	21.200		A	A		A	A	A	A	A	B	A	C	A				
22.000	22.100																	
	22.200		B	B		B	B	B	B	B	B	B	B	B	B	B		
	22.300																	
23.000																		
24.000				C		A	A	A	B	C		A						
25.000				B		A	A	A	B	C		B						
26.000												B						
34.000	34.100		A	A	A	A	A	B	A	B	A		A	A	A	A	A	A
	34.200		A	A	A	A	A	B	A	B	A		A	A	A	A	A	A
STREETS																		
RAILROAD			A	A	C	A	A	A	A	A	A	A	A	A	A	A	A	A

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE (PROPOSED)			7.000	8.000	9.000	10.000	11.000	12.000	13.000	14.000				15.000		
										14.100	14.200	14.300	14.400	15.100	15.200	15.300
1.000	1.100	1.111														
		1.112														
		1.113														
		1.121														
		1.122														
	1.200															
	1.300															
	1.400															
	1.500		A							A	A			C		
	1.600															
	1.700									C	C					
	1.800															
	1.900															
2.000	2.100		A							A	A					
	2.200		A							A	A			C		
3.000			A													
4.000			A	A	A	B		A	A	A	A			A	C	
5.000	5.100									C	C					
	5.200		C													
	5.300		C													
	5.400		A							A	A					
6.000	6.100		A							A	A					
	6.200	6.210	A							A	A			B		
		6.220	C							B	C					
		6.230	A	B	C			A	C	A	A			B		
		6.240	A	B	C				C	A	A			C		
		6.250	A	A	A	B		A	A	A	A			A	C	
		6.260	A	A	A	A		A	A	A	A			A	A	
7.000																
8.000			A						A	A						
9.000			A						C	A	A			B		
10.000			B	B	C			C	C	B	B			B		
11.000			A	A	A			A	A	A	A	C		A	A	
12.000			A	A	B				B	A	A			A		
13.000																
14.000	14.100															
	14.200															
	14.300		A	A	A	B		A	A	A	A			A	B	

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE			7.000	8.000	9.000	10.000	11.000	12.000	13.000	14.000				15.000		
(PROPOSED)										14.100	14.200	14.300	14.400	15.100	15.200	15.300
	14.400		A	A	A	B		A	A	A	A			A	B	
15.000	15.100		A							A	A					
	15.200		A	A	A	C		A	C	A	A			B		
	15.300		A	A	A	B		A	A	A	A			A	B	
	15.400		A	A	A	C		A	C	A	A			B		
16.000			A							A	A			C		
17.000			A	A	B	B		B	A	A	A			A	B	
18.000	18.100		A	A	A	A		A	A	A	A			A	C	
	18.200		A	A	A	A		A	A	A	A			A	C	
	18.300		A	A	A	A		A	A	A	A			A	C	
19.000			A							A	A			C		
20.000			A													
21.000	21.100		C													
	21.200		A	A	A	B		A	A	A	A			A	C	
22.000	22.100									C	C					
	22.200		B	B	B	B		B	B	B	B			B	B	
	22.300															
23.000																
24.000			A						C	A	A			B		
25.000			A							A	A			C		
26.000																
34.000	34.100			A	A	A	A	A	B	A	B	A		A	A	A
	34.200		A	A	A	A	A	A	B	A	B	A		A	A	A
STREETS																
RAILROAD			A	A	A	A		C	A	C	C			A	C	

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE (PROPOSED)			15.400	16.000	17.000	18.000	18.100	18.200	18.300	19.000	20.000	21.000	21.100	21.200	22.000	22.100	22.200	22.300	23.000
1.000	1.100	1.111																	
		1.112																	
		1.113																	
		1.121																	
		1.122																	
	1.200																		
	1.300																		
	1.400																		
	1.500										B	A		A					
	1.600																		
	1.700																		
	1.800																		
	1.900																		
2.000	2.100										C	A		A					
	2.200										B	A		A					
3.000												B		A					
4.000			C	A						A	A	A		A					
5.000	5.100																		
	5.200																		
	5.300																		
	5.400										C	A		A					
6.000	6.100										C	A		A					
	6.200	6.210		B							B	A		A					
		6.220										B							
		6.230		C						C	B		C	A	C	C			
		6.240		C						B	B	A		A					
		6.250	C	A						A	A	A	A	A	A	A	A		
		6.260	A	A	A					A	A	A	A	A	A	A	A		
7.000															B				
8.000											C	A		A					
9.000											C	A		A					
10.000				B						B	B	B		B					
11.000			A	A	C			C	C	A	A	A	B	A	B	B			
12.000				B							A	A		A					
13.000											B	A		A					
14.000	14.100																		
	14.200																		
	14.300		B	A						A	A	A	B	A	B	B			

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE			15.400	16.000	17.000	18.000	18.100	18.200	18.300	19.000	20.000	21.000	21.100	21.200	22.000	22.100	22.200	22.300	23.000
(PROPOSED)																			
	14.400		C	A						A	A	A	B	A	B	B			
15.000	15.100										C	A		A					
	15.200			A						A	A	A		A					
	15.300		B	A						A	A	A		A					
	15.400			A						A	A	A		A					
16.000											C	A		A					
17.000			B	A						A	A	A	B	A	B	B			
18.000	18.100		C	A						A	A	A	C	A	C	C			
	18.200		A	A						A	A	A	C	A	C	C			
	18.300		C	A						A	A	A	C	A	C	C			
19.000											B	A		A					
20.000												B		A					
21.000	21.100																		
	21.200		C	A						A	A	A		A					
22.000	22.100																		
	22.200		B	B						B	B	B		B					
	22.300																		
23.000																			
24.000											C	A		A					
25.000											B	A		A					
26.000																			
34.000	34.100		A		A	A	A	A	A	A	B	A	B	A	B	B			
	34.200		A	A	A	A	A	A	A	A	B	A	B	A	B	B			
STREETS																			
RAILROAD			C	A						A	A	A	C	A	C	C			

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE			24.000	25.000	26.000	34.000		STRT	RAIL.
(PROPOSED)						34.100	34.200		
1.000	1.100	1.111							
		1.112							
		1.113							
		1.121							
		1.122						C	A
	1.200								B
	1.300							C	A
	1.400							C	A
	1.500							C	A
	1.600							C	A
	1.700								A
	1.800								A
	1.900								A
2.000	2.100							C	
	2.200						C	C	
3.000								C	
4.000			A			A	A	A	
5.000	5.100							C	
	5.200							C	
	5.300							C	
	5.400							C	
6.000	6.100							C	
	6.200	6.210						C	
		6.220						C	
		6.230	C			C	C	C	
		6.240	C			B	C	B	
		6.250	A			A	A	A	
		6.260	A			A	A	A	
7.000								C	
8.000								C	
9.000							C	C	
10.000			C			B	B	B	
11.000			A			A	A	A	C
12.000			B				B	B	
13.000								C	
14.000	14.100								
	14.200								
	14.300		A			A	A	A	C

Art. XIX Screening and Trees**Section 15-308 Table of Screening Requirements (Amended 6/26/07)****Dominant Use (Existing)**

SERVIENT USE			24.000	25.000	26.000	34.000		STRT	RAIL.
(PROPOSED)						34.100	34.200		
	14.400		A			A	A	A	C
15.000	15.100							C	
	15.200		A			A	A	A	
	15.300		A			A	A	A	C
	15.400		A			A	A	A	
16.000								C	
17.000			B			A	A	A	
18.000	18.100		A			A	A	A	C
	18.200		A			A	A	A	C
	18.300		A			A	A	A	C
19.000							C	C	
20.000								C	
21.000	21.100							C	
	21.200		A			A	A	A	
22.000	22.100							C	
	22.200		B			B	B	B	
	22.300								
23.000									
24.000							C	C	
25.000							C	C	
26.000								C	
34.000	34.100		A			A	A	A	
	34.200		A			A	A	A	A
STREETS									
RAILROAD			A	A	A			A	

Section 15-309 Flexibility in Administration Required.

(a) The ~~Council~~~~Board~~ recognizes that because of the wide variety of types of developments and the relationships between them, it is neither possible nor prudent to establish inflexible screening requirements. Therefore, as provided in Section 15-306, the permit-issuing authority may permit deviations from the presumptive requirements of Section 15-308 and may require either more intensive or less intensive screening whenever it finds such deviations are more likely to satisfy the standard set forth in Section 15-308 without imposing unnecessary costs on the developer.

(b) Without limiting the generality of subsection (a), the permit-issuing authority may modify the presumptive requirements for:

- (1) Commercial developments located adjacent to residential uses in business zoning districts.
- (2) Commercial uses located adjacent to other commercial uses within the same zoning district.
- (3) Uses located within planned unit developments.
- (4) For use classification 1.320 constructed pursuant to 15-160.1(b) by allowing a less stringent street right-of-way screening. **(Amended 06/02/20)**

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive requirements set forth in Section 15-308, it shall enter on the face of the permit the screening requirement that it imposes to meet the standard set forth in Section 15-308 and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it (or the appearance commission) receives in the consideration of a specific development proposal, that a presumption established by Section 15-308 is erroneous, it shall initiate a request for an amendment to the Table of Screening Requirements in accordance with the procedures set forth in Article XX.

Section 15-310 Combination Uses.

(a) In determining the screening requirements that apply between a combination use and another use, the permit-issuing authority shall proceed as if the principal uses that comprise the combination use were not combined and reach its determination accordingly, relying on the table set forth in Section 15-308, interpreted in the light of Section 15-309.

(b) When two or more principal uses are combined to create a combination-use, screening shall not be required between the composite principal uses unless they are clearly separated physically and screening is determined to be necessary to satisfy the standard set forth

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in Section 15-305. (For example, screening may be required in a residential combination use consisting of single-family and multi-family components.)

Section 15-311 Landscaping Plan.

Any person who has been issued a permit under this chapter for any development in a non-residential district involving the construction of new buildings or parking areas or additions to or exterior modifications of existing buildings or parking areas, as well as (i) any similar development in a residential district, if such development requires a class A or class B special ~~or conditional~~ use permit, shall prepare and file a landscaping plan prior to the issuance of a building permit for such development. No building permit shall be issued for such development until the Appearance Commission has had the opportunity, pursuant to regular agenda procedures, to review and comment upon such landscaping plan. (AMENDED 2/4/86)

Section 15-311.1 Screening of Flag Lots in the Historic District (HD) (AMENDED 11/21/95).

Notwithstanding the provisions of Section 15-308, every flag lot in the Historic District (HD) shall provide a Type B screen [as described in Section 15-307 (1)] between the flag lot and adjacent property [see Section 15-175.10(c)].

Section 15-312 Protective Buffer Along Major Roads (AMENDED 05/25/99; 10/23/07)

Notwithstanding the provisions of Section 15-308, but subject to the remaining provisions of this section, an undisturbed protective buffer shall be maintained along Old N.C. 86, Dairyland Road, Union Grove Church Road, Homestead Road, Eubanks Road and Smith Level Road south of Ray Road that will help preserve the scenic views and elements of this area. With respect to each property that fronts one of the named streets, any development other than use classification 13.200, Fire Station, that occurs after the effective date of this section shall provide an undisturbed buffer (except for necessary crossings) that is a minimum of 50 feet in width and on average is 100 feet in width along such frontage. If the buffer area does not provide the equivalent of a Type 'A' screen, the developer shall provide a Type 'A' screen on the development's side of the buffer (one hundred (100) feet from the right-of-way)

Section 15-313 Reserved.

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PART II. SHADING AND TREE PROTECTION

Section 15-314 ~~CouncilBoard~~ Findings and Declaration of Policy on Protecting Trees and Other Plants (REWRITTEN 06/24/14)

(a) The ~~CouncilBoard~~ finds that:

- (1) Trees, shrubs, and other plants are proven producers of oxygen, a necessary element for human survival; and
- (2) Trees, shrubs, and other plants appreciably reduce carbon emissions by shading buildings and thereby lowering energy use to cool buildings; and
- (3) Trees, shrubs, and other plants improve air quality by lowering air temperatures and removing air pollutants; and
- (4) Trees, shrubs, and other plants transpire considerable amounts of water each day and thereby maintain the natural hydrologic cycle; and
- (5) Trees, shrubs, and other plants through their canopies and root systems intercept precipitation and encourage rain to infiltrate into the soil and maintain soil water for plants and recharge ground water and play an important and effective part in soil conservation, erosion control, creek protection and flood control; and
- (6) Trees, especially large, old trees, provide invaluable beneficial physical, aesthetic, historic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, and built environment, reducing noise levels and glare, shielding people from high winds, and breaking the monotony of human developments on the land, particularly for parking areas and streets; and
- (7) Trees, shrubs and other plants help improve soil quality by breaking up heavy soils, mining nutrients and remediating soils at contaminated sites by absorbing, transforming and containing a number of contaminants; and
- (8) Tree stands create habitats that support a diversity of plants and animals; and
- (9) Trees, shrubs and other plants make important contributions to the vitality and character of the Town and its neighborhoods and create a more aesthetic, pleasant and emotionally satisfying place in which to live, work and spend leisure time; and

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- (10) Trees, shrubs and other plants provide numerous human health benefits such as shading ultraviolet radiation, reducing rates of respiratory disease and illness and stress management; and
- (11) Trees, shrubs and other plants have an important impact on the desirability of land and, consequently, on property values, as well as benefitting commercial activity by creating a more enjoyable environment.
(AMENDED 03/21/89)

(b) Based upon the findings set forth in subsection (a), the ~~Council~~**Board** declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the town's planning jurisdiction, present and future, to protect certain existing trees and tree stands and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

Section 15-315 Definitions (REWRITTEN 06/24/14)

Unless otherwise specifically provided, or unless the context clearly indicates otherwise, the words and phrases defined below shall have the meaning indicated when used in this Part.

- (1) Canopy tree: A healthy evergreen or deciduous tree species that matures at a height of at least thirty (30) feet.
- (2) Dripline: Perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground).
- (3) Clearcutting: The large-scale, indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for nonagricultural purposes.
(AMENDED 05/25/99)
- (4) A specimen or rare tree is defined as any healthy tree that:
 - i. has a trunk diameter at breast height (dbh) of thirty-six (36) inches or more for pine tree species; or
 - ii. has a trunk dbh of 18" inches or more for any species; or
 - iii. has a trunk dbh of 12 inches or more in the case of the species from the following list of North Carolina native canopy tree genera; or

Aesculus (Ohio Buckeye)

Chamaecyparis (Atlantic White Cedar)

Carya (Southern Shagbark Hickory)

Diospyros (Persimmon)

Fagus (Beech)

Juniperus (Eastern Red Cedar)

Magnolia (Magnolia)

Pinus (Longleaf pine)

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Quercus (Swamp Chestnut Oak)
Taxodium (Bald cypress)
Tsuga (Hemlock)
Ulmus (American Elm)

- iv. has a trunk dbh of six inches or more in the case of the species from the following list of North Carolina native understory tree genera: or

Amelanchier (Serviceberry)
Asimina (Pawpaw)
Carpinus (Hornbeam)
Cercis (Redbud)
Chionanthus (Fringetree)
Cornus (Dogwood)
Crataegus (Hawthorn)
Halesia (Silverbell)
Hamamelis (Witch-hazel)
Ilex (Holly)
Ostrya (Hophornbeam)
Oxydendrum (Sourwood)
Sassafras (Sassafras)

- v. is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association; or
- vi. provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- vii. has been cited by the ~~Town Council~~Board of Aldermen as being historically significant; or
- viii. any other tree species listed in the North Carolina Natural Heritage Program as being significantly rare, of special concern, threatened, or endangered.

- (5) Tree. A perennial woody plant, single or multiple trunks, with few if any branches on its lower part, which at maturity will obtain a minimum six (6) inch caliper.
- (6) Tree canopy. The combined area encompassing the drip zones of all canopy trees.
- (7) Tree Protection Perimeter: That area within a circle drawn with the tree's trunk as the center. Radius is dependent upon site conditions and the relative tolerance of tree species to construction damage. Standard accepted radius is 1-1.5 feet per diameter inch of tree to be retained.

Section 15-316 Required Trees Along Dedicated Streets.

Along both sides of all newly created streets with respect to which an offer of dedication is required to be made by this chapter, the developer shall either plant or retain sufficient trees so

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that, between the paved portion of the street and a line running parallel to and fifty feet from the center line of the street, there is for every thirty feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least twelve inches in diameter. Trees planted to satisfy this section shall not be placed uniformly but in an irregular pattern with a minimum of one twelve inch (12") diameter tree (when fully mature) every one hundred feet (100'). When trees are planted by the developer pursuant to this section, the developer shall choose trees that meet the standards set forth in Appendix E. **(AMENDED 11/19/96)**

Section 15-317 Retention and Protection of Specimen and Rare Trees

(a) Every development shall retain all existing specimen and rare trees unless the retention of such trees would unreasonably burden the development. When a site would be so unreasonably burdened by the retention of all such trees that a choice must be made as to which trees will be retained, the following criteria shall be used by the applicant, in consultation with the land use administrator and landscape or forestry profession also to evaluate the trees for the purpose of deciding which to retain: **(AMENDED 06/24/14)**

- (1) The rareness of the tree species, both relative to the species representation on the site and relative to the species representation within the region and the state. This shall be the most important criterion in the evaluation;
- (2) The tree's relative size and age, large old trees being considered more valuable than smaller, younger trees of the same species;
- (3) The trees' relative expected longevities, including such factors as the trees' relative health at the time of the evaluation;
- (4) The relative hardiness of the trees in question, including wind firmness, climatic requirements, susceptibility to insects and diseases;
- (5) The trees' relative aesthetic values, including flowers, fruit, form characteristics, potential for autumn coloration;
- (6) The trees' relative sizes at maturity;
- (7) The trees' relative contribution to summertime comfort through their potential to provide shading. **(AMENDED 03/21/89)**

(b) Flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities should be pursued in order to save rare and specimen trees. **(AMENDED 03/21/89; 06/24/14)**

(c) No excavation or other subsurface disturbance may be undertaken within the Tree Protection Perimeter around any tree to be retained in accordance with (a) above. In addition, no impervious surface (including but not limited to equipment, paving, and structures) may be located

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within the Tree Protection Perimeter, either during construction or after completion of the development. **(AMENDED 03/21/89; 06/24/14)**

(d) There shall be no clearcutting in any development within the Transition Area portion of the Carrboro Joint Development Area as identified in the Joint Planning Agreement. The term “clearcutting” shall refer to the large-scale, indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing real property for nonagricultural purposes. **(AMENDED 05/25/99; 06/24/14)**

(e) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsections (a) or (b), and, as a result, the parking requirements set forth in Article XVIII cannot be satisfied, the number of required spaces may be reduced by the number of spaces “lost” because of the provisions of subsections (a) and (b), up to a maximum of fifteen percent of the required spaces. **(AMENDED 06/24/14)**

Section 15-318 Shade Trees In Parking Areas.

(a) Vehicle accommodation areas containing more than four parking spaces that are required by Section 15-296 must be shaded by deciduous trees (either retained or planted by developer) that have or will have when fully mature a trunk at least twelve inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the developer shall choose trees that meet the standards set forth in Appendix E. **(AMENDED 11/10/81; 06/24/14)**

(b) Each tree of the type described in subsection (a) shall be presumed to shade a circular area having a radius of fifteen feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, thirty-five percent of the vehicle accommodation area will be shaded. **(AMENDED 06/24/14)**

(c) No paving may be placed within 15 feet (measured from the trunk) of any tree retained to comply with subsection (a), unless such tree is eighteen inches or greater in diameter or a very rare species as described in Section 15-316, in which case no paving may be placed within the Tree Protection Perimeter for such trees as described in 15-316(b). New trees planted to comply with subsection (a) shall be located so that they are surrounded by at least 200 square feet of unpaved area. **(AMENDED 5/10/83; 03/21/89)**

(d) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of three feet six inches.

(e) The foregoing requirements shall not apply to 19.100 classification uses where such uses do not involve the construction of a permanent structure and are conducted not more than two days per week on the site of a vehicle accommodation area that is used primarily in connection with another use. Furthermore, when a 19.100 classification use meeting the foregoing requirements is installed on a lot that is nonconforming with respect to the shading requirements of this section, the lot shall not be required to comply with these shading requirements solely

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because of installation of such use, even though a new permit applicable to the entire lot may be required. (AMENDED 9/2/86)

Section 15-319 Tree Canopy Coverage Standards (REWRITTEN 06/24/14)**(a) Minimum Canopy Coverage Standards**

Subject to the remaining provisions of this section, the following minimum tree canopy coverage percentages are required within the boundaries of every lot or tract for which a zoning, special use, or conditional use permit ~~was~~ issued after June 24th, 2014 or a class A or class B special use permit is issued after July 1, 2021, exclusive of required cleared active recreation areas, water bodies, access easements, public and private right-of-way, stormwater and utility easements.

Table 1: Minimum Tree Canopy Coverage Standards

Land Use	Minimum Canopy Coverage
Residential	40%
Other than residential excluding districts (B-1(c), (B-1(g), (B-2)	30%
Other than residential in districts (B-1(c), (B-1(g), (B-2)	15%

- (1) When a tract is subdivided and pursuant to the provisions of Article XIII the developer sets aside open space areas or recreation areas that contain canopy trees (with a minimum caliper of six inches) or when a developer of a subdivision plants canopy trees to comply with the shading requirements of Article XIII, the total tree canopy area so preserved or established shall be credited against the minimum canopy coverage percentages set forth above. The remaining required tree canopy coverage area shall be allocated by the subdivider among the subdivided lots, and this allocation shall be shown on the recorded plat of such subdivision.

(b) Modifications to Canopy Coverage Standards

- (1) The permit issuing authority may approve a development application that does not fully comply with the canopy coverage standards when it finds that the application substantially complies with these standards and that such a deviation enables the development to better achieve other Town objectives, such as the promotion of solar access to encourage active and passive solar technology for water and space heating and renewable energy generation, improved stormwater management, and the preservation of established managed landscapes, or established streetscapes, and the development of affordable housing under 15-161.1(b).
- (2) Modifications for canopy coverage standards may be approved for the development of affordable housing under Subsection 15-161.1(b) so long as the application provides for an increase in canopy coverage by at least double. (Amended 06/02/20)

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Compliance with the tree canopy standards shall be achieved as follows:

- (1) Protection of existing tree canopy. The extent of existing tree canopy coverage retained at the time of permit application may be documented by survey or by using current aerial photographs available on the Town's web page or similar resource. Protection of the existing tree canopy will be demonstrated by the tree protection plan required by Section 15-320;
- (2) Replacement of canopy. If the existing protected tree canopy is less than the minimum standard as shown in Table 1, the deficit shall be made up by the planting of additional trees as provided herein:
 - a. One (1) replacement tree per 500 square feet of tree canopy coverage deficit shall be planted in accordance with an approved planting plan.
 - b. All canopy trees planted to meet the Town's screening and parking lot shading standards can be counted when calculating replacement canopy trees provided.
 - c. Supplemental canopy trees planted to complete the canopy coverage requirements shall be planted no less than twenty (20) feet from any other proposed or existing canopy tree.
 - d. Replacement trees that are planted in an adjacent right-of-way may count toward total tree canopy.
 - e. Replacement tree caliper shall be two and one-half (2.5) inches at installation. A replacement tree with a caliper of four (4) inches or greater may count for two replacement trees.

Section 15-320 Protection of Trees During Construction.

(a) The permit recipient shall be responsible for ensuring that all existing trees specifically shown on approved plans as being retained to comply with this article are protected, during the construction process, from removal, destruction, or injury. As described in Appendix A, a tree protection plan detailing the methods for such protection shall be submitted as part of the land use permit application and construction plan package. Tree protection methods shall meet accepted industry standards in accordance with ANSI A300 and associated Best Practices. (AMENDED 3/12/85; 2/24/87; 03/21/89; 06/24/14)

- (1) The permit recipient shall ensure that, before any excavation takes place on the site, a barrier is erected around the Tree Protection Perimeter of all trees to be retained on the site that are within the area to be disturbed by construction activities, and other provisions made such as are necessary and

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sufficient to put on notice all construction personnel that the area within the Tree Protection Perimeter of all such trees is to be retained is not be disturbed. During the construction process, the permit recipient shall ensure that all activities are kept outside the Tree Protection Perimeter of all such trees. The barrier required by this subsection shall be installed before the issuance of any grading or construction permits for such site. **(AMENDED 06/24/14)**

- (2) The permit recipient shall ensure that all such trees to be retained on the site that are within the area to be disturbed by construction activities, or near roads within the development, shall be further protected from accidental equipment damage by wrapping their trunks with sections of snow fence or boards wired together from the ground to a height six (6) feet above the ground. **(AMENDED 06/24/14)**
- (3) The permit recipient shall ensure that land disturbing activity shall not occur, and that building materials, construction trailers, vehicles, equipment or machinery, dirt, fill, and/or other debris shall not be stored within the Tree Protection Perimeter of such trees as are to be retained.
- (4) The permit recipient shall ensure that all such trees as are to be preserved shall not be used as supports for roping, cable, signs, or fencing, and that nails shall not be driven into the trunks of trees.
- (5) The permit recipient shall ensure that any damage done during construction to the limbs or trunks of such trees as are to be retained shall be properly treated so as to assure the continued health of the trees. The land use administrator shall be consulted, and may suggest that the applicant seek advice from landscape or forestry professionals as to the appropriate method for such treatment. **(AMENDED 06/24/14)**
- (6) Prior to the commencement of any land alteration on a site for which a Tree Protection Plan has been approved, including all clearing or grading activities, the land use administrator shall certify in writing based on an inspection of the site that all tree protection measures required by the approved Tree Protection Plan have been put in place properly and accurately. The land use administrator shall provide this certification in a timely fashion on being notified by the permit recipient that the site is ready for such inspection and certification. **(AMENDED 03/21/89)**

(b) If a violation of subsection (a) occurs, and as a result (b) rare or specimen tree(s) specifically shown on approved plans as being retained die or otherwise must be removed within four years after a certificate of occupancy is granted for that portion of a development on which the trees are or were located, then the permit recipient shall be required to replace such trees with trees of the same species, if available, or of a similar species. The choice of the replacement species, where necessary, shall be made subject to approval by the Town. Each replacement tree

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shall be at least of tree diameter equivalent in size to one (1) inch per every four (4) inches of tree diameter of the tree it replaces, up to a maximum replacement tree diameter of five inches. In cases where the tree to be replaced had a diameter greater than twenty inches, it shall be replaced by more than one tree, such that the ratio of one inch of replacement tree diameter to four inches of original tree diameter is satisfied, and at least one of the replacement trees is of the maximum replacement tree diameter of five inches. In addition, no replacement tree may be smaller than one inch in diameter. For example, a twenty-eight inch diameter tree would be replaced by one five inch diameter tree and one two-inch diameter tree of the same species. Tree replacement shall be performed by either a landscape contractor or forester licensed to practice in the State of North Carolina, or by an arborist certified by the International Society of Arboriculture or National Arborists Association. Such replacement must take place within one year after the death or removal of the trees occur, and this obligation shall be a continuing condition of the validity of the permit. Violators of the tree protection requirements described in subsection (a) shall be subject to the penalties and remedies for all land use ordinance and land use permit condition violations described in Section 15-114. **(AMENDED 03/21/89; 06/24/14)**

Section 15-321 Performance Security May Be Required (AMENDED 03/21/89; 10/24/06; 06/24/14)

(a) In cases when the land use administrator has reasonable cause to believe that a Tree Protection Plan has been violated, he or she may require that the developer post a security, for the five year period (four years plus one year in which replacement may occur) described in subsections (b) and (c) of section 15-318, to cover the potential replacement of all such large and rare species trees as are called out in the Tree Protection Plan as being protected. The purpose of this security is to ensure that the financial capability will exist, during the full five year period described in subsections (b) and (c) of section 15-318, to replace any large or rare species trees as are called out on a Tree Protection Plan as being protected during construction, and which have died due to construction damage caused by a violation of the Tree Protection Plan.

(b) It is the intent of this section that the removal and replacement of such trees that die due to construction damage shall be arranged by the Town only when the developer cannot be located at the time when the removal and replacement becomes necessary.

(c) The required security shall be in the form of an interest-bearing account or certificate of deposit payable to the Town, in the amount necessary for the removal of all of the large and rare species trees as are called out in the Tree Protection Plan as being preserved, their replacement as described in subsections (b) and (c) of section 15-318, and the one-time violation penalty described in section 15-114 at the time the security is required. At such time as the four year period described in subsections (b) and (c) of section 15-318 is complete, and no deaths of trees called out in the Tree Protection Plan as being preserved have occurred, the security and all interest accrued on it shall revert to the developer. In the event that some but not all of the security amount is used or needed for tree removal and replacement at the end of the four year period described in subsections (b) and (c) of section 15-318, the remaining security amount and the interest it has accrued shall revert to the developer at the end of that four year period.

Section 15-321.1 Regulation of Forestry Activities. (AMENDED 06/24/14)

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(a) The terms “forestry,” “forestry activity,” “forestland,” “forest management plan” and “timber harvest” shall be defined by and used in the same manner as in G.S. ~~160D-921+60A-458.5~~.

(b) Notwithstanding any other provisions of this chapter, this chapter does not regulate either:

(1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under G.S. Chapter 105, Art. 12; or

(2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with G.S. Chapter 89B.

(c) Notwithstanding subsection (b) above, the Town may deny a zoning, ~~class A or class B~~ special use, ~~conditional use~~, or building permit for a tract of land for a period of up to three years after the completion of a timber harvest if the harvest results in the removal from that tract of all or substantially all of the trees protected by this chapter. If the removal of such trees was in willful violation of the requirements of this chapter, then such permits may be refused for a period of five years.