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

DRAFT 01-22-2021

THE CARRBORO TOWN COUNCIL ORDAINS:

Section 1. Article III, Administrative Mechanisms, is amended to replace all references to the 'Board of Aldermen,' 'Alderman,' or 'Board' in Article III, Administrative Mechanisms, with the 'Town Council,' 'Council Member,' or 'Council,' respectively.

Section 2. Article III, Administrative Mechanisms, is amended to replace the words, 'chairman' and 'vice chairman' with 'chair' and 'vice chair.'

Section 3. Section 15-15-21, Appointment and Terms of Planning Board Members, is amended by adding a new subsection (a1) to read as follows:

(a1) To ensure proportional representation, the number of ETJ representatives on the planning board shall be based on the population for residents within the town's extraterritorial planning area. The population estimates for this calculation shall be updated no less frequently than after each decennial census, and pursuant to G.S. 160D-307, board representation adjusted as needed to maintain proportionality.

Section 4. Article III, Administrative Mechanisms, 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 5. Section 15-25, Powers and Duties of the Planning Board, is amended by adding a new provision (4) allowing the planning board to make recommendations to the Board of Adjustment relating to class B special use permits, and renumbering the existing provision (4) to provision (5).

Section 6. Subsection 15-26(a), Advisory Committees, is rewritten to read as follows:

(a) From time to time, the Town Council may appoint one or more individuals to assist the planning board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Town Council may appoint advisory committees to consider long range transportation plans, including pedestrian and bicycle plans, housing plans, economic development plans, etc..

Section 7. Section 15-29, Appointment and Terms of Board of Adjustment is amended to add a new subsection (a1) to read as follows:

(a1) To ensure proportional representation, the number of ETJ representatives on the board of adjustment shall be based on the population for residents within the town's extraterritorial planning area. The population estimates for this calculation shall be updated no less frequently than after each decennial census, and pursuant to G.S. 160D-307, board representation adjusted as needed to maintain proportionality.

Section 8. Section 15-32, Voting, is amended by rewriting subsection (f) to read as follows:

(f) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order if made by or at the initiative of the member directly affected or to decide an objection to a member's participation at or prior to a hearing.

Section 9. Section 15-37, Land Use Administrator, is amended by adding an additional sentence requiring staff charged with administrating the Land Use Ordinance with taking an oath of office, to read as follows:

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned to one or more individuals by the town manager. The person or persons to whom these functions are assigned shall be referred to in this chapter as the "land use administrator" or "administrator." The term "staff" or "planning staff" is sometimes used interchangeably with the term "administrator."

As required by G.S. 160D-309, all persons assigned to the administration of this chapter shall take an oath of office prior to beginning to their service.

Section 10. Section 15-42, Appointment and Terms of Appearance Commission, is amended by adding a new subsection (d1) to read as follows:

(d1) Whenever a historic district is designated, subject to the provisions of Section 15-338 of this chapter, in the town's extraterritorial planning area, the Town Council shall appoint persons residing in the town's extraterritorial planning area to serve on the Appearance Commission to provide proportional representation as required by G.S. 160D-307.

Section 11. Article III, Part VII., Membership Limitations on Boards, Committees, Advisory Groups, and Commissions, is amended by adding a sentence requiring newly appointed board members to take an oath of office prior to beginning a term of service.

Section 12. Article IV, Permits and Final Plat Approval, 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' throughout.

Section 13. Section 15-46, Permits Required, is rewritten to read as follows:

Section 15-46 Permits Required.

(a) Subject to Section 15-271 (Sign Permits) and subsection (e) of this section, the use made of property may not be substantially changed (see Section 15-152), substantial clearing, grading or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits: **(AMENDED 10/22/91)**

(1) A zoning permit issued by the administrator;

(2) A class B special use permit issued by the board of adjustment;

(3) A class A special use permit issued by the Town Council.

(a1) Pursuant to G.S. 160D-102(30) and Section 2.9(b) of S.L. 2019-111, any valid 'conditional use permit' issued prior to January 1, 2021 shall automatically convert to a 'class A special use permit.' Any valid 'special use permit' shall automatically convert to a 'class B special use permit.' Any 'conditional use zoning district,' adopted in accordance with section 15-141.3 and Article XX of this chapter shall be deemed a 'conditional zoning district' and the 'conditional use permit' issued concurrently with the establishment of the district shall be deemed a valid 'class A special use permit.' Requests for modifications to class A and class B special use permits shall be consider in accordance with the procedures in section 15-64 of this chapter.

(b) Zoning permits, class B special use permits, class A special use permits, and sign permits are issued under this chapter in respect to plans submitted by the applicant that demonstrate compliance with the ordinance provisions contained herein. Such plans as are finally approved are incorporated into any permit issued in reliance thereon, and except as otherwise provided in Section 15-64, all development shall occur strictly in accordance with such approved plans. Approvals shall be in writing, issued in print or electronic form, and may contain a provision that the development shall comply with all applicable State and local laws. **(AMENDED 1/10/81)**

(c) Physical improvements to land to be subdivided may not be commenced except in accordance with a class A special use permit issued by the Town Council (for major subdivisions containing more than twelve lots and all subdivisions in watershed districts) or a class B special use permit issued by the board of adjustment (for major subdivisions outside the watershed districts containing between five and twelve lots) or after final plat approval by the planning director for minor subdivisions (see Part II of this article). **(AMENDED 12/15/87)**

(d) A zoning permit, class A special use permit, class B special use permit, or sign permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All such permits issued with respect to tracts of land in excess of one acre (except sign permits and zoning permits for single-family residential uses and duplexes) shall be recorded in the Orange County Registry after execution by the record owner as provided in Section 15-63. **(AMENDED 5/26/81)**

(e) Notwithstanding the provisions of subsection (a) of this section, no permit under this chapter shall be required for the substantial alteration of a building or structure located within a B-1(c), B-1(g) or B-2 zoning district if such alteration does not change the exterior of such building or structure in any substantial way. **(AMENDED 10/22/91)**

(f) Property located in the town's extraterritorial planning area and development regulation jurisdiction that is used for bona fide farm purposes, as defined in G.S. 106-581.1, is exempt from the regulations in this chapter. As used in this subsection, "property" means a single tract of property or an identifiable portion of a single tract. Property that ceases to be used for bona fide farm purposes becomes subject to exercise of the town's extraterritorial planning and development regulation jurisdiction under this chapter.

Section 14. Section 15-48, Who May Submit Permit Applications, is amended by listing an easement holder as an example of an applicant for a development approval.

Section15. Article IV, Permits and Final Plat Approval is amended by the addition of a new Section, 15-49.1, Permit Choice, to read as follows:

15-49.1 Permit Choice.

(a) If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(b) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the town for a period of six consecutive months or more, the application review is discontinued and the development regulations in effect at the time permit processing is resumed apply to the application.

(c) Repealed by Session Laws 2015-246, s. 5(a), effective September 23, 2015.

(d) Any person aggrieved by the failure of the town to comply with this section or G.S. 160A-360.1 or G.S. 153A-320.1 G.S. 160D-108(b) may apply to the appropriate division of the General Court of Justice for an order compelling compliance by the town, and the court may issue that order. Actions brought pursuant to any of these sections shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.

(e) For purposes of this section, the following definitions apply:

(1) Development. – Without altering the scope of any regulatory authority granted by statute or local act, any of the following:
   a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
   b. Excavation, grading, filling, clearing, or alteration of land.
   c. The subdivision of land as defined in G.S. 160D-802.
   d. The initiation of substantial change in the use of land or the intensity of the use of land.

(2) Development permit. – An administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:
   a. Zoning permits.

b. Site plan approvals.
c. Special use permits.
d. Variances.
e. Certificates of appropriateness.
f. Plat approvals.
g. Development agreements.
h. Building permits.
i. Subdivision of land.
j. State agency permits for development.
k. Driveway permits.
l. Erosion and sedimentation control permits.
m. Sign permit.

(3) Land development regulation. – Any State statute, rule, or regulation, or town ordinance affecting the development or use of real property, including any of the following:
a. the Carrboro Land Use Ordinance and Zoning Map, and
b. Erosion and sedimentation control regulation.
c. Floodplain or flood damage prevention regulation.
d. Housing code.

Section 16. Section 15-51 Staff Consultation After Application Submitted, is amended to replace the use of pronouns for gender neutral language.

Section 17. Sections 15-53 and 15-60(a) are amended to reference the rewritten performance guarantee provisions for subdivisions, in 15-60(b).

Section 18. The provisions relating to performance guarantees for subdivisions under Section 15-60(b) are rewritten to read as follows:

(b) With respect to subdivided developments, the manager may authorize final plat approval and the sale of lots before all the requirements of this chapter (including approved plans) are fulfilled if the subdivider provides a surety bond, letter of credit, or other security satisfactory to the manager to ensure that all of these requirements will be fulfilled within a reasonable period of time after final plat approval (not to exceed twelve months) as determined by the manager. The developer shall choose which of the above listed performance guarantees to use. Upon a showing of good cause (by way of illustration without limitation, where it is sensible to delay the final coat of pavement of a street until heavy construction within the subdivision is essentially complete, or where completion of a bioretention area should be delayed until site disturbance is nearly finished), the manager may approve the extension of such security for successive periods of up to twelve months each, so long as such extension does not compromise the health or safety of the general public or the occupants of the subdivision.

Notwithstanding the foregoing, pursuant to G.S. sections 160D-804; 804.1, all of the following shall apply with respect to performance guarantees:

(1a) Duration. – The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

(1b) Extension. – A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in subdivision (3) of this subsection and shall include the total cost of all incomplete improvements.

(2) Release. – The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the town that the improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer. The town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the town, if subject to its acceptance, upon request by the developer, the town government shall timely provide written acknowledgement that the required improvements have been completed.

(3) Amount. – The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained. The town may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(3a) Timing. – The town, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(4) Coverage. – The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(5) Legal responsibilities. – No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

a. The town, to whom such the performance guarantee is provided.
b. The developer at whose request or for whose benefit such the performance guarantee is given.
c. The person or entity issuing or providing such the performance guarantee at the request of or for the benefit of the developer.

(6) Multiple guarantees. – The developer shall have the option to post one type of a performance guarantee as provided for in subdivision (1) of this section, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

(7) Exclusion. – Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

Section 19. Section 15-59, Additional Requirements on Special Use and Conditional Use Permits, is rewritten to read as follows:

Section 15-59 Additional Requirements on Class B and Class A Special Use Permits.

(a) Subject to subsection (b), in granting a class B special or class A special use permit, the board of adjustment or Town Council, respectively, may attach to the permit such reasonable requirements in addition to those specified in this chapter as will ensure that the development in its proposed location: **(AMENDED 3/23/10)**

(1) Will not endanger the public health or safety; or

(2) Will not injure the value of adjoining or abutting property; or

(3) Will be in harmony with the area in which it is located; ~~and~~ or

(4) Will be in conformity with the Carrboro Comprehensive Plan, Land use Plan, Long Range Plan, or other plan officially adopted by the Council.

(b) The permit-issuing authority may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements. **(AMENDED 5/26/87)**

(1) Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land

(2) The applicant/landowner shall provide written consent to all conditions relating to the special use permit.

(c) Without limiting the foregoing, the board may attach to a permit a condition limiting the permit to a specified duration.

(d) Repealed.**)**

(e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(f) A vote may be taken on additional conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Subdivision 15- 54(c)(3) or (4).

Section 20. Section 15-61, Completing Developments in Phases, is amended by adding a new subsection (d) to read as follows:

(d) Pursuant to G.S. section 160D-108(d)(4), and subsection 15-128.2 of this chapter, a multiphase development shall be vested for the entire development with the ordinance regulations in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

Section 21. Section 15-67, Maintenance of Common Areas, Improvements, and Facilities, is amended to remove the reference to conditional use permits in the first sentence.

Section 22. Article IV, Part II. Major and Minor Subdivisions, is amended by adding a new section 15-78.1 to read as follows:

Section 15-78.1 Special Review for Certain Classes of Subdivisions

Pursuant to G.S. section 160D-802, the town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of G.S. 160D-802; (the division of land into parcels greater than 10 acres where no street right-of-way dedication is involved).

(2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.

(3) The entire area of the tract or parcel to be divided is greater than 5 acres.

(4) After division, no more than three lots result from the division.

(5) After division, all resultant lots comply with all of the following:

a. All lot dimension size requirements of the applicable land-use regulations, if any.

b. The use of the lots is in conformity with the applicable zoning requirements, if any. c. A permanent means of ingress and egress is recorded for each lot. (2019-111, s. 2.4.)

c. A permanent means of ingress and egress is recorded for each lot. (2019-111, s. 2.4.)

Section23. Article V, Appeals, is amended to update the citations referencing the applicable provisions in the North Carolina General Statutes.

Section 24. Article V, Appeals, is amended to replace all references to the 'Board of Aldermen,' 'Alderman,' or 'Board' in Article III, Administrative Mechanisms, with the 'Town Council,' 'Council Member,' or 'Council,' respectively.

Section 25. Article V, Appeals is amended by adding a new Section 15-93.1, Determinations, to read as follows:

Section 15-93.1 Determinations.

A determination is a written, final, and binding order, requirement, or determination regarding an administrative decision. This includes any interpretation of this chapter, affirmation of nonconforming status, notice of violation or other binding order concerning a development regulation. When making a determination, the administrator shall follow the process provided for appeals in sections 15-91 of this chapter. Determinations may be appealed to the board of adjustment.

Section 26. Article XVII, Signs, 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' wherever they appear in the Article.

Section 27. Subsection 15-271(c), Permit Required for Signs, is amended to change the word administration in provision (2)(b) from 'administration' to 'administrator.'

Section 28. Article XVII, Signs, is amended to replace all references to the 'Board of Aldermen,' 'Alderman,' or 'Board' in Article III, Administrative Mechanisms, with the 'Town Council,' 'Council Member,' or 'Council,' respectively.

Section 29. Subsection 15-271(d), Permit Required for Signs, provision (1) is written to read as follows:

(1) Such master signage plan may be approved as part of the issuance of the original class A special use permit or as a minor amendment to the original class A special use permit, provided that no such master plan shall be approved through the minor amendment process unless the Town Council first holds a public hearing on the proposed amendment. With respect to class A special use permits that were approved as conditional use permits prior to July 1, 2021, a master signage plan may also be approved as a minor amendment following the public hearing process described above. Amendments to a master signage plan approved under this section may be approved in accordance with the provisions of Section 15-64 (Amendments to and Modifications of Permits).

Section 30. Section 15-320, Amendments in General, is amended to include a reference to the comprehensive plan in subsection (a), as follows:

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

Section 31. Article XX, Amendments, is amended to update the citations referencing the applicable provisions in the North Carolina General Statutes.

Section 32. Provision (1) under Subsection 15-321(b), Initiation of Amendments, is rewritten to read as follows:

(1) The name, address, and phone number of the applicant. If a change in zoning district classification to a less dense development density is proposed, the name, address, phone number and signature of all property owners consent to the application is required. Applications for down-zoning shall not be considered unless all the property owners consent to the application.

Section 33. Subsection 15-321(d), Initiation of Amendments, is amended to include an additional sentence, to read as follows:

(d) Upon receipt of a proposed ordinance as provided in subsection (a), the Council may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in subsection (b), the Council may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the planning staff, to draft an appropriate ordinance. In accordance with G.S. 160D-60 (d), petitions for proposed map changes that would result in a downzoning of property shall only be initiated by the owners of the property or the Town. (See subsection (b)(1) above.)

Section 34. Section 322 of the Carrboro Land Use Ordinance, Planning Board and Other Advisory Consideration of Proposed Amendments, is rewritten to read as follows:

Section 15-322 Planning Board and Other Advisory Consideration of Proposed Amendments

(a) If the Council sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved, and may refer the amendment to the transportation advisory board if the amendment involves community transportation issues, and may refer the amendment to the environmental advisory board if the amendment involves community environment issues, and may refer the amendment to the affordable housing advisory commission if the amendment involves an affordable housing issue, and may refer the amendment to the Economic Sustainability Commission if the amendment involves an economic development issue. **(AMENDED 09/19/95, REWRITTEN 02/25/14, AMENDED 06/25/19)**.

(b) The planning board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan, Land Use Plan, long-range transportation plans, or other applicable plans officially adopted by the Town Council. The planning board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the planning board. If no written report is received from the planning board within 30 days

of referral of the amendment to that board, the Town Council may proceed in its consideration of the amendment without the planning board report. **(AMENDED 10/24/06)**

(c) A comment by the planning board that a proposed amendment is inconsistent with the Comprehensive Plan, Land Use Plan, long-range transportation plans or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Town Council, and the Town Council is not bound by the recommendations of the planning board. **(AMENDED 10/24/06)**

(d) A member of the planning board and any other advisory committee that provides direct advice to the Town Council (i.e. it does not report to the planning board) shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. **(AMENDED 10/24/06)**

Section 35. Section 15-323, Hearing Required: Notice, is amended to add the word 'legislative' in the section heading and in subsection (a), and to expand the mailed notice requirements under subsection (c) to more closely align with the language in the North Carolina General Statutes which speaks to abutting property as follows:

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

Section 36. Subsection 15-323(e), Hearing Required: Notice, is amended to specify when notice should be posted, as follows:

(e) For proposed zoning map amendments, the planning staff shall prominently post a notice of the public hearing on the site proposed for a rezoning or an adjacent public street or highway right-of-way at least 10 but not more than 25 days prior to the date of the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the planning staff shall post sufficient notices to provide reasonable notice to interested persons.

Section 37. Section 15-324, Board Action on Amendments, is rewritten to read as follows:

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

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

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

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

(d) When adopting or rejecting any zoning amendment, the Council shall adopt a statement describing whether the action is consistent with an adopted comprehensive plan, which shall not be subject to judicial review **(AMENDED 2/6/2018).**

(1) If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and no additional request or application for a plan amendment shall be required.

(2) A plan amendment and zoning amendment may be considered concurrently.

(3) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. section 160D-602(b), the Council's statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(d1) When adopting or rejecting any petition for a zoning text or map amendment the Council shall adopt a statement explaining the reasonableness of the proposed rezoning. The statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of any area proposed to be rezoned; (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development and the development permissible under the proposed amendment, (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. section 160D-602(b), the statement on reasonableness may address the overall rezoning.

(e) A Council member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. (See also Carrboro Town Code Section 2-35).

Section 38. Section 15-325, Ultimate Issue Before Board on Amendments, is amended to remove the language relating to a request to rezone property to a conditional use district, in provision (1).

Section 39. Section 15-326, Citizen Comments on Zoning Map and Text Amendments, is rewritten to read as follows:

The Town of Carrboro Land Use Ordinance may from time to time be amended, supplemented, changed, modified or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification or repeal to a zoning regulation (including a text or map

amendment) to the Clerk of the Town Council at least two (2) business days prior to the proposed vote on such change, the Clerk to the Council shall deliver such written statement to the Council. If the proposed change is the subject of a quasi-judicial proceeding under North Carolina General Statutes section 160D-705 or any other statute, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the Council shall not disqualify any member of the Council from voting. Written statements submitted in connection with a quasi-judicial proceeding may be admitted into evidence at such a proceeding if the Council determines that such statements are admissible under the N.C. Rules of Evidence in the proceeding. (Amended 12-6-16; and enacted pursuant to a Resolution in Opposition to the General Assembly's Repeal of Statutory Authority for Qualified Protest Petitions to Trigger a Super Majority Vote for Certain Zoning Map Amendments, dated 12-6-16).

Section 40. Article XXI, Neighborhood Preservation, is amended to replace all references to the 'Board of Aldermen,' 'Alderman,' or 'Board' in Article III, Administrative Mechanisms, with the 'Town Council,' 'Council Member,' or 'Council,' respectively.

Section 41. Article XXI, Neighborhood Preservation, 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 42. Article XXI, Neighborhood Preservation, is amended to update the citations referencing the applicable provisions in the North Carolina General Statutes.

Section 43. Section 15-336, Historic District Commission, is rewritten to read as follow:

The appearance commission established under Article III, Part V, of this chapter is hereby designated as the historic district commission and shall exercise all duties and responsibilities conferred upon the historic district commission. Pursuant to Section 15-339(d) below, when serving as the historic district commission to consider certificates of appropriateness, the appearance commission shall conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.

Section 44. Article XXI, Neighborhood Preservation, is amended to change all references to 'guidelines' in Section 15-338 and 15-339 to 'standards.'

Section 45. Section 15-339, Certificates of Appropriateness, is amended to clarify the quasi-judicial nature of all procedures relating to certificates of appropriateness.

Section 46. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 47. This ordinance shall become effective upon adoption.