

TOWN OF CARRBORO
APPEARANCE COMMISSION AGENDA (Remote Meeting*)

May 9, 2024 (Rescheduled)

6:30 pm

6:30-6:35 I. Approval of Minutes from April 4, 2024 Meeting

6:35-6:45 II. Approval of signage

1. **PNC Bank, 300 W. Weaver Street, Carrboro, NC- New monument sign reface**

New monument sign in the same location as the existing sign, using the same sign base and existing uprights. The sign will not be illuminated between 12AM-6AM. Like for like replacement of exit sign.

6:45-7:00 III. Other business

1. Joint Review (May 2, 2024)
2. Consolidation

ADJOURN

*Remote meeting on Zoom, to view the meeting please use the following link:

Rescheduled Carrboro Appearance Commission Meeting:
Time: May 9, 2024 06:30 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://townofcarrboro.zoom.us/j/81183953649>

Meeting ID: 811 8395 3649

If you wish to make public comment, at the time of the public comment, the staff person will be able to allow speakers to remotely enter the meeting one-by-one to comment.

APPEARANCE COMMISSION MINUTES

April 4th, 2024 (REMOTE MEETING)

6:30pm

Members Present:

Sharon Reilly (Vice Chair)

Whitney Fry

James Scott

Eliazar Posada (Council Member)

Members Absent

David Markiewicz (Chair)

Samantha Carney

Nathan Jorgensen

Staff Present: Ann Stroobant- Planner/Zoning Development Specialist

Sharon called the meeting to order as David was out of town.

I. Approval of Minutes from March 7th, 2024 Meeting

A motion was made by James and seconded by Whitney to approve the minutes from the March 7, 2024 meeting.

AYES: 3 (Sharon Reilly, Whitney Fry, James Scott)

NOES: 0

Motion approved.

II. Approval of signage-No signage submitted for approval at this meeting.

III. Review and discussion of Advisory Board Consolidation

Member general review and discussion:

- Members want to make sure that Appearance Commission content such as signs, trees and other appearance related concerns are addressed in the consolidated committee.
- Members of the committee should come from all over town. What is the best way to reach out?
- The rules of procedure for the committee should be fairly standard, like how to elect officers and member participation.
- It was observed that Planning Board meetings are larger and start later at night.

- The Planning Board appears to be more of a commitment in terms of time, as the Planning Board meets two times a month. Is it possible to have a time limit on the meetings when the new combined commission meets?
- Commitment is important on any committee. Members need to be able to give the time to serve. What is the time commitment needed to serve, given that the Planning Board now meets twice a month and has Joint Review?
- What is the difference between the Planning Board and Joint Review?
 - In the case of Joint Review, Council Member Posada said that each committee needs to have quorum for their recommendation to be valid. The Planning Board has one meeting a month with their usual tasks, plus another meeting which is Joint Review. Having served on the Planning Board, he can confirm that this will be a larger commitment for folks. The Planning Board meets the first and third Thursday of each month. Make sure that the town clerk has the correct time posted for commission meetings.
- Members wanted to know if future meetings of the Planning Board will be in person or on zoom.
 - Council Member Posada said that the meetings are on zoom for now, but that the board is moving toward in-person meetings, most likely by the end of the year. The rules are determined by the NC General Assembly which is based on NC state law.
- Members also want the committee in which they participate to reflect their desires and be aligned with their skill set.
- Is there the ability for some members to go to a board other than the Planning Board that more accurately reflects their skill set and time commitment? A person should not be expected to fulfill duties on a committee to which they did not commit. If people feel overloaded by the Planning Board, a member expressed that this would be a good argument to go to another board.
- Council Member Posada thanked members for their time and commitment.

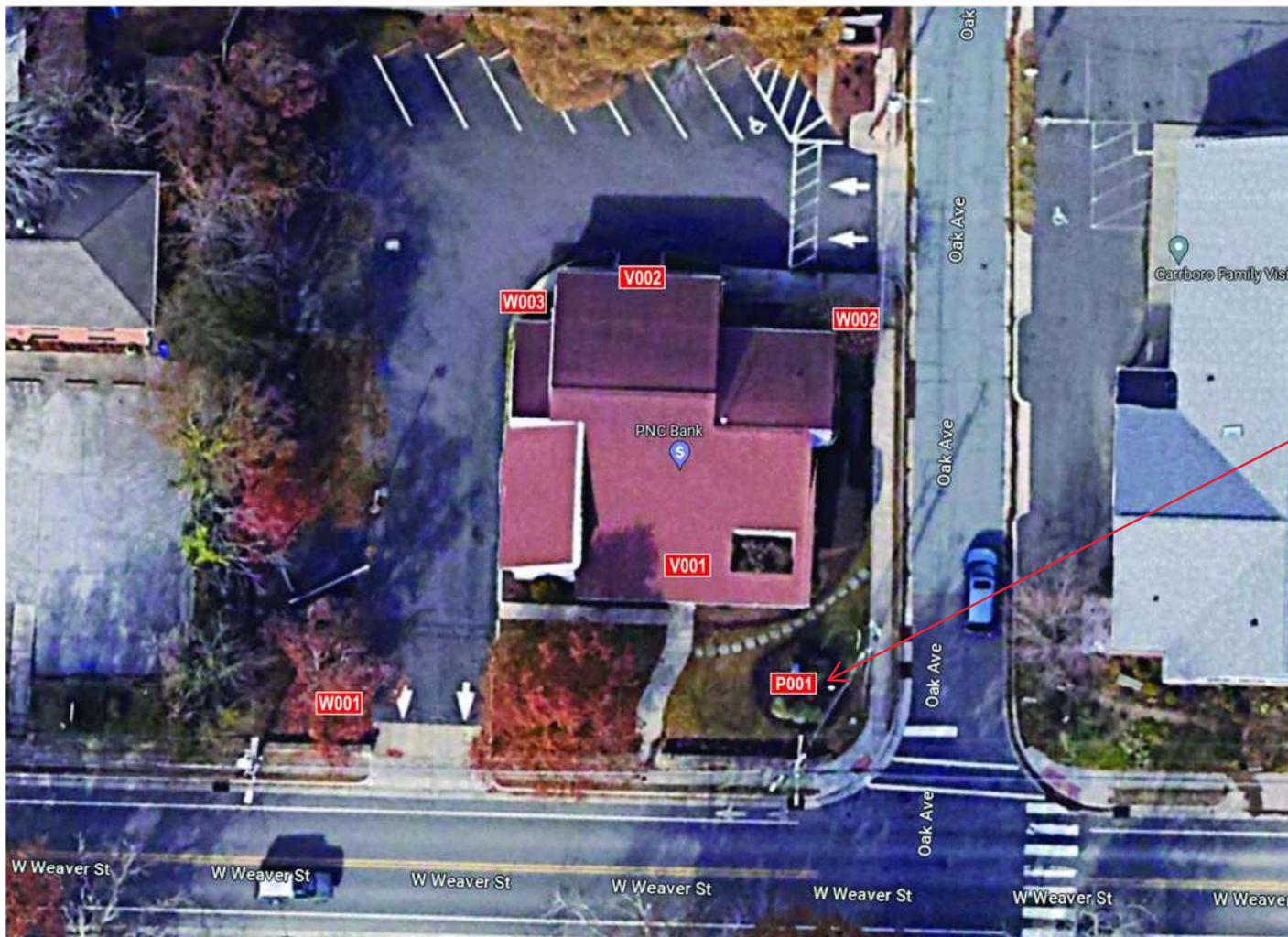
-Members were invited to attend the full Joint Review session at 7:30pm.

Motion made by Whitney and seconded by James to adjourn the meeting.

AYES: 3 (Sharon Reilly, Whitney Fry, James Scott)

NOES: 0

ADJOURN



Sign P001 sits 17' back from W. Weaver Street * & 12'-9" from Oak Avenue.

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Key to Items Indicated on Site Plan

VOO1, V002, V003-Already existing and will remain

W001-like for like swap, no logo and non-illuminated

W002-will not happen-is removed from scope of work

P001-PNC Monument sign reface in the same location as the existing sign, using the same sign base and existing uprights. Both faces added together total 52.52 sf.
The sign will not be illuminated between 12AM-6AM.

4

3

2

1

NOTES:

1.) SIGN WILL BE EXTERNALLY ILLUMINATED WITH EXISTING UPLIGHTS.
 2.) SIGN WILL NOT BE ILLUMINATED BETWEEN THE HOURS OF 12AM-6AM.

REVISIONS

REV.	ECR NUMBER	REV CHANGE	DATE	DRAFTER
A	87034	INITIAL RELEASE	04.02.24	MN

5'-2 1/2"

5'-0 1/2"

12"

FIRST SURFACE APPLIED
3M 3630-3318 'PNC ORANGE'
OVER 3M 7725-10 OPAQUE 'WHITE' VINYL
 POWERLINK WEDED OUT TO SHOW WHITE

ALUMINUM FACE PANEL **PAINTED**
MATTHEWS MP31479 'PNC BLUE'
SEMI-GLOSS

FIRST SURFACE APPLIED
3M 7725-10 OPAQUE 'WHITE' VINYL

FIRST SURFACE APPLIED
3M 3630-8037 'PNC LIGHT BLUE'
OVER 3M 7725-10 OPAQUE 'WHITE' VINYL

EXISTING SIGN BASE TO REMAIN

SIDE A - ELEVATION VIEW
 SCALE 3/4" = 1'-0"

ALUMINUM FACE FRAME **PAINTED**
MATTHEWS MP31479 'PNC BLUE'
SEMI-GLOSS

EXISTING CABINET TO REMAIN

END VIEW
 SCALE 3/4" = 1'-0"

SIDE B - ELEVATION VIEW
 SCALE 3/4" = 1'-0"

Program/Customer: PNC BANK		 <small>DESCRIPTION: MONUMENT RETROFIT Part Number: PNC-M-RET-U898</small>
Interior/Exterior:	EXTERIOR	
Sign Type:	MONUMENT	
Engineer:	S. SWABE	
Windspeed:	115 MPH	
Illumination:	EXTERNAL ILLUMINATED	
Voltage:	120/277	SCALE: AS NOTED

4

3

2

1

SHEET 1 OF 2

ANSI B SIZE DRAWING - COREL032422

4

3

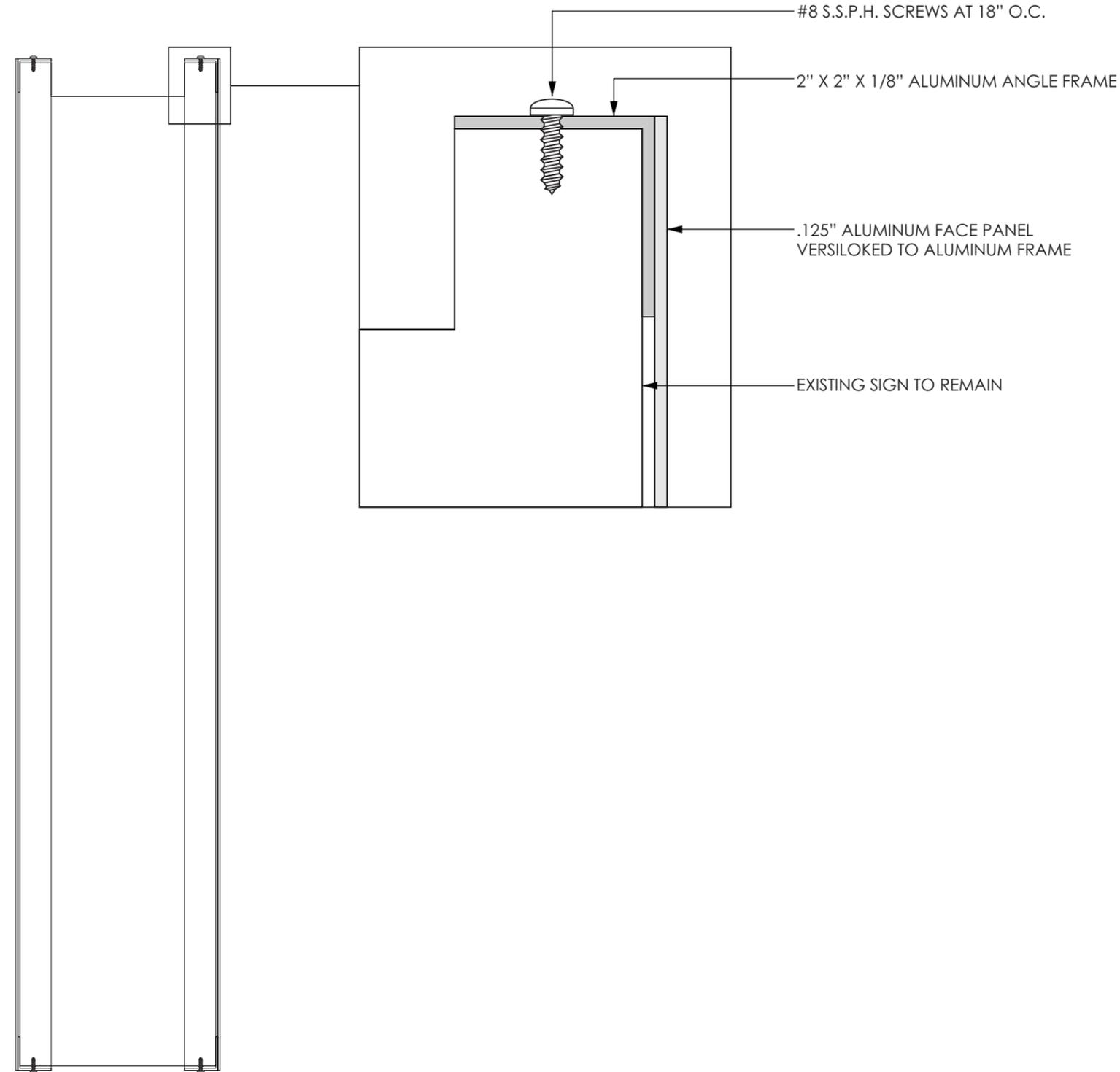
2

1

REVISIONS				
REV.	ECR NUMBER	REV CHANGE	DATE	DRAFTER
A	87034	INITIAL RELEASE	04.02.24	MN

B

B



A

A

SECTION A-A
SCALE: 1 1/2" = 1'-0"

Program/Customer:		
PNC BANK		
Interior/Exterior:	EXTERIOR	
Sign Type:	MONUMENT	
Engineer:	S. SWABE	
Windspeed:	115 MPH	
Illumination:	EXTERNAL ILLUMINATED	DESCRIPTION: MONUMENT RETROFIT
Voltage:	120/277	Part Number: PNC-M-RET-U898
SCALE: AS NOTED		

4

3

2

1

ANSI B SIZE DRAWING - COREL032422



D-3-NL-EX-UB

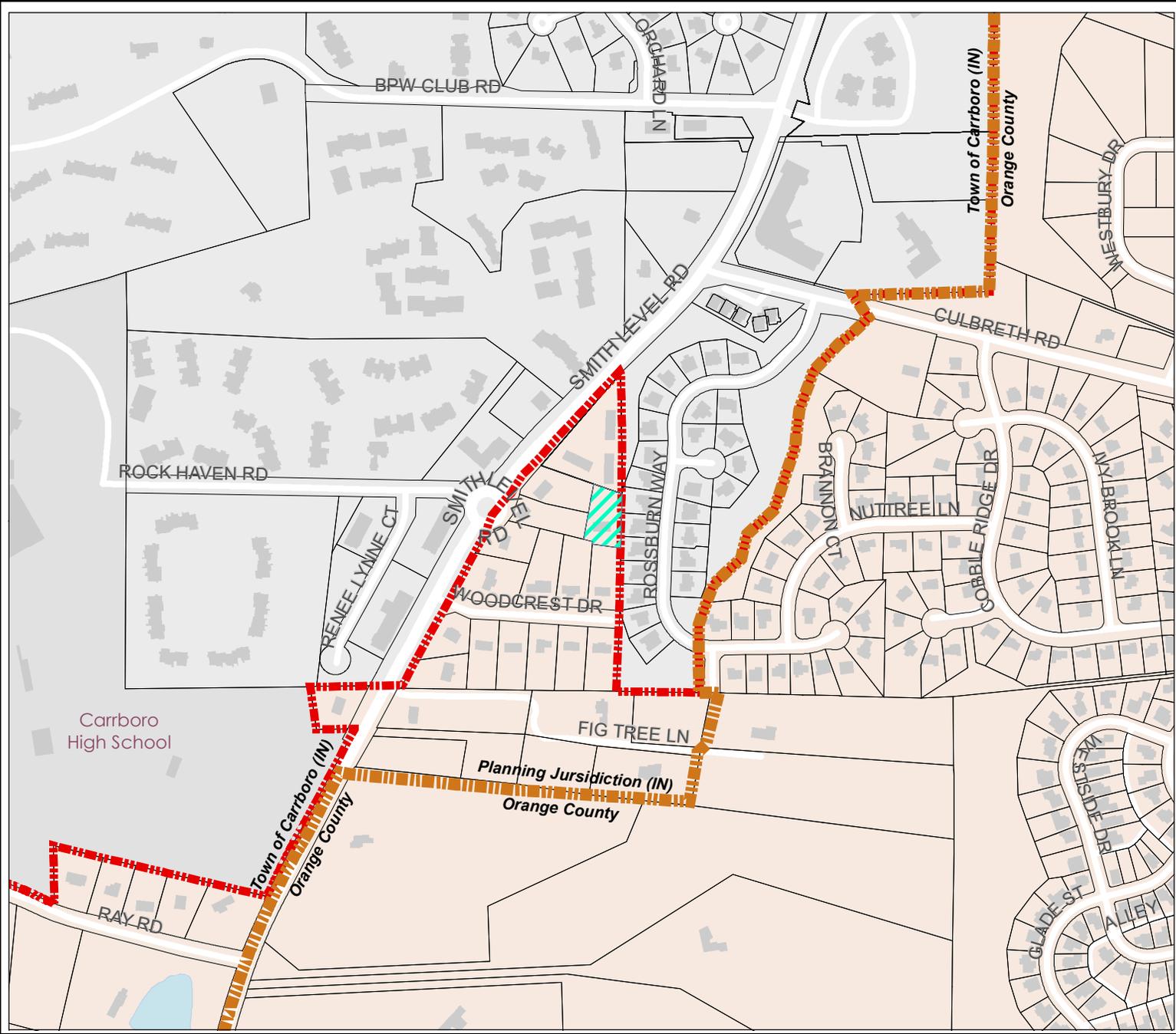
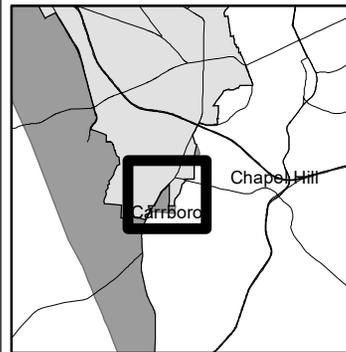
Unbranded non-illum directional

2'-1 1/2" x 1'-5" (3 sqft)

3'-0" OAH

JOINT REVIEW ITEMS
A. <i>Concept Plan Review for 603 Smith Level Road, SUP-B for Tourist Home</i>
B. <i>Conditional Rezoning Request for 400 North Greensboro Street for Residential Project</i>
C. <i>Review of Legislative Text Amendments to LUO, multiple topics are covered</i>

603 Smith Level Use Permit



Legend

803 Terrace View

Town Limits

Planning Boundary

0 250 500 Feet

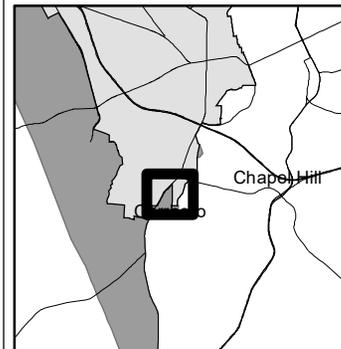
1 inch = 500 feet

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April 24, 2024
Source: Town of Carrboro GIS

603 Smith Level Use Permit



Legend

803 Terrace View

Town Limits

Planning Boundary

0 150 300 Feet

1 inch = 300 feet



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April 24, 2024

Source: Town of Carrboro GIS



Craig Boyles 603 Smith Level Rd 517-974-1458

Addressing potential neighborhood concerns regarding Short-Term Rentals

Trespassing/Foot Traffic

Our house is situated ~40 yards away from the road. The driveway is the only entry point. The property is mostly surrounded by fencing -- 12' wooden fencing on the East and metal fencing elsewhere.

We are on good terms with the neighbors that would see any influx of foot traffic coming up the driveway. They also have fenced yards. They will have my personal cell number and the 24-hour number of our property management company should any issues or concerns arise.

Parking

Smith Level Road does not allow for street parking and there are no other roads with parking within a reasonable distance. While our long driveway could accommodate a number of vehicles, we will limit this to 3 or 4 to ensure maintenance vehicles can enter and have room to turn around. There will be no allowance for oversized vehicles/RVs. This will all be disclosed to guests.

Parties

Guests will be bound by house and property rules for both the benefit of the neighborhood and the safety of the guests. The rental listing will limit the number of guests to 6 adults, or 8 people in total. Exterior security cameras (disclosed to the guests) will be present to ensure unregistered persons/groups are not parking or entering the pool area.

Excessive Noise

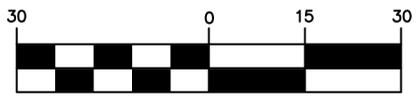
Several "Quiet Hours 10pm-8am" signs will be posted on the property and this will also be detailed in the guest agreement. Violation of the no-party or excessive noise rules will be handled swiftly and the remainder of their reservation will be cancelled.

Property Damage/Grounds Maintenance

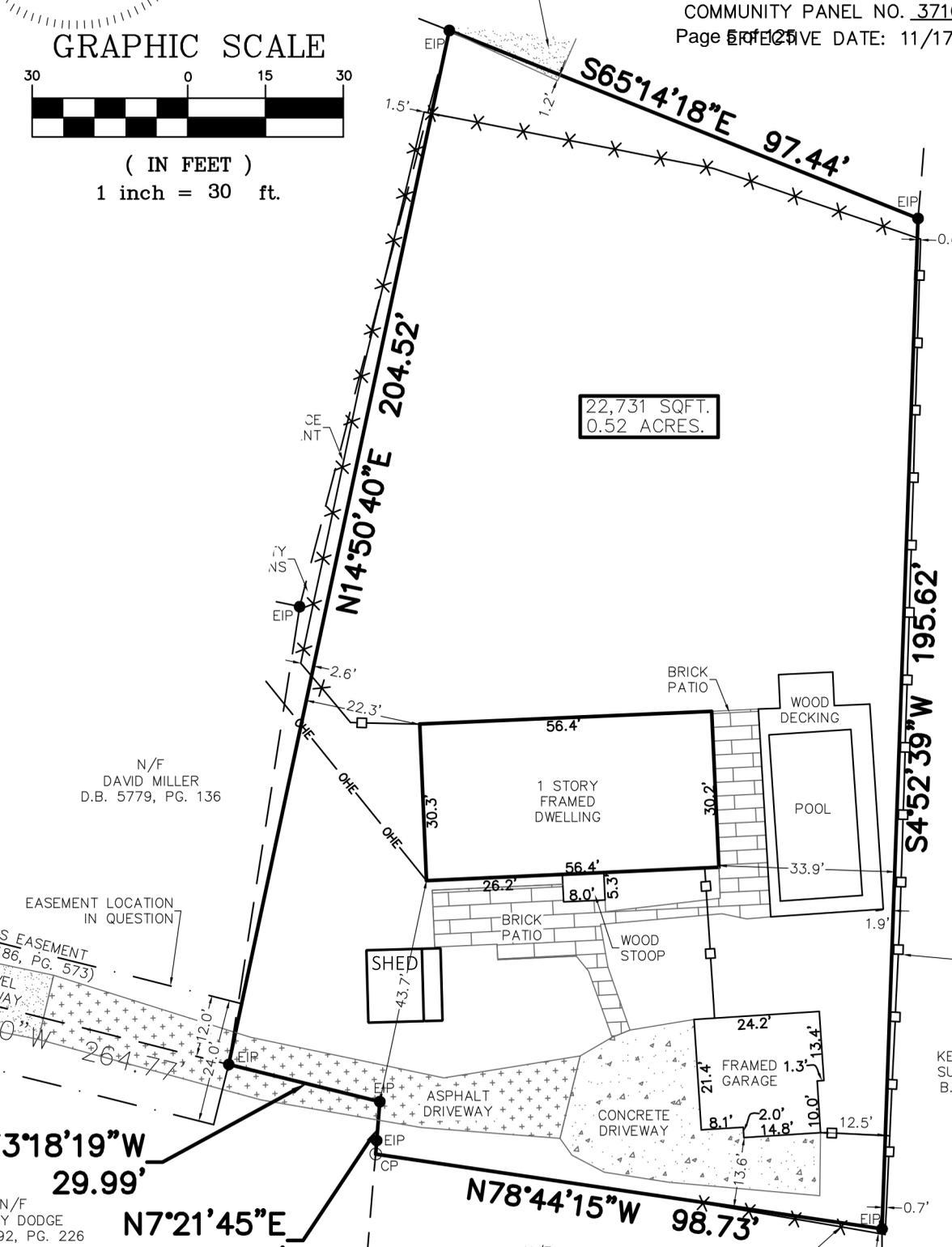
Even though our house is obscured by distance, trees and fences, it is still important to us that the grounds and home are kept in good condition. Our full-service property management company will orchestrate home repairs, lawn care, pool maintenance, etc. and is available 24/7 to handle any issues.

In short, we have spent too much time, energy, and money on our home to see it abused in any way, hence we are paying a premium for Awning Property Management. They will not only handle the day-to-day property needs but they will also thoroughly review all potential guests/booking requests, for the benefit of both the property and surrounding area.

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.





Advisory Boards

ITEM NO. _____

AGENDA ITEM ABSTRACT

MEETING DATE: May 2, 2024

TITLE: Proposed Rezoning for Property at 400 North Greensboro Street

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _ NO <u>X</u>
ATTACHMENTS: A. Recommendation Template for Rezoning B. Draft Ordinance for Rezoning C. Vicinity Map D. Staff Report E. Petition for Change in Zoning & Project Narrative F. Rezoning Exhibit - Illustrative Site Plan & Building Elevations G. Advisory Board comments for Concept Plan H. LUO Excerpts	Tina Moon – 918-7325 Patricia McGuire – 918-7327

PURPOSE

The Town has received a petition to rezone property at 400 North Greensboro Street from CT to B-1G-CZ. The Town Council has set a public hearing for Tuesday, May 21, 2024, to consider this request. Advisory board review has been requested prior to the public hearing.

INFORMATION

Sam Mitchell of Bison Lodge, LLC, has submitted a petition to rezone the 0.37-acre property at 400 North Greensboro Street from CT (Corporate Town, Residential 40,000 square feet per dwelling unit) to B-1G-CZ (General Business, Residential 2,000 square feet per dwelling unit) for the purpose of developing a multi-family residential project. The proposal is for the construction of a new three-story brick building containing seven units and associated common areas, with the possibility of a small non-residential use in the future. The project will involve the removal of the existing house on the property. A vicinity map of the property is provided for information (*Attachment C*).

Materials submitted by the applicant and his agent, Jim Spencer Architect, include a brief project narrative, petition for change of zoning, illustrative site plan and building plans (*Attachments E and F*). Advisory board comments on the concept plan presented at the December 2022 Joint Advisory Board meeting are also provided. Due to the nature of the comments, applicant responses were not necessary.

A draft rezoning ordinance has been prepared and includes draft conditions; it is anticipated that these may be further refined during advisory board review and the public hearing process (Attachment B). It should be noted that the final conditions must be mutually agreed upon by the applicant and the Town.

A public hearing has been set for May 21st. Consideration of a rezoning (map amendment) is a legislative decision. The Town Council must receive public comments before taking action on the requests. Planning Board review is also needed, and the Affordable Housing Advisory Commission, Appearance Commission, Transportation Advisory Board, Environmental Advisory Board and Stormwater Advisory Commission have been asked to review the item based on their expertise.

STAFF RECOMMENDATION

Staff recommends that advisory boards consider the rezoning proposal and determine whether such an action is consistent with Town policy and otherwise beneficial or desirable and make a recommendation regarding its findings to the Town Council (*Attachment A*). Staff also recommends that advisory boards review the draft ordinance amending the zoning map to B-1G-CZ (*Attachment B*). Suggestions for additional or modified conditions, if identified, may be added to the recommendation template in Attachment A.



TOWN OF CARRBORO

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

MAY 2, 2024

400 North Greensboro Street Conditional Rezoning to B-1G-CZ

By a unanimous show of hands, the _____ membership indicated that no members have any financial interests, nor any close familial, business or other associational relationship to the landowner of the property subject to a rezoning petition that would pose a conflict of interest.

Motion was made by _____ and seconded by _____ that the _____ recommends that the Town Council _____ the draft ordinance.

VOTE:

AYES: ()

NOES: ()

ABSTENTIONS: ()

ABSENT/EXCUSED: ()

Associated Findings

Motion was made by _____ and seconded by _____ that the _____ of the Town of Carrboro finds the proposed map amendment _____ consistent with the Town of Carrboro 2022-2042 Comprehensive Plan, particularly:

- Affordable Housing Strategies to either increase the number of affordable homes for purchase by way of a payment in-lieu (1.1).
- Transportation & Mobility Strategies to encourage non-automobile use and expand opportunities for transportation options that do not rely on fossil fuel/SOVs under strategies 2.1 & 3.1.
- Green Stormwater Infrastructure, Water & Energy, Energy strategy 1.1, to reduce greenhouse gas emissions from motor vehicle use; and .
- Land Use Strategies – to develop fifteen-minute neighborhoods and make efficient use of land, 4.1.

The _____ furthermore finds that the above-described amendment is reasonable and in the public interest because it uses a mechanism that allows rezonings to occur under very specific conditions so as to ensure compatibility with surrounding and proposed uses.

VOTE:

AYES: ()

NOES: ()

ABSTENTIONS: ()

ABSENT/EXCUSED: ()

(Chair)

(Date)

AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE
APPROXIMATELY 0.37 ACRES OF PROPERTY KNOWN AS 400 NORTH
GREENSBORO STREET FROM CT (CORPORATE TOWN) TO B-1G-CZ (GENERAL
BUSINESS, CONDITIONAL)

Draft 03-22-2024

THE TOWN COUNCIL OF THE TOWN OF CARRBORO ORDAINS:

SECTION 1. The Official Zoning Map of the Town of Carrboro is hereby amended as follows:

That the property being described on Orange County Tax Maps as Chapel Hill Township, 400 North Greensboro Street (PIN 9778-87-6328) encompassing approximately 0.37 acres as shown on the accompanying map titled “Rezoning Exhibit CT to B-1G-CZ” is hereby rezoned from CT (Corporate Town) to B-1G-CZ (General Business, Conditional) subject to the following conditions:

1. The Concept Plan labeled “_____ – 400 North Greensboro Street Conditional Rezoning,” dated _____ is approved and incorporated herein to indicate all potential land uses, the general location of the building and parking areas, vehicular and bicycle-pedestrian access points, stormwater management features, areas of preserved trees and other landscaped areas. Other features and issues remain to be decided at the time a special use permit is requested for the development. Those features and issues include, but are not necessarily limited to, the location of EV charging stations, open space and recreation facilities, sidewalk facilities along North Greensboro Street, and all other elements necessary to determine compliance with the Land Use Ordinance.
2. The residential density of the project shall be capped at a maximum of seven (7) dwelling units, comprising of use classifications 1.331 (multi-family apartments with maximum 20% units with > 3 bedrooms/du) and 1.332 (multi-family apartments with no bedroom limits).
3. The project shall contain at least three of the following provisions: water conservation, energy conservation, on-site energy production, provisions for affordable housing, alternate transportation, and provisions for public art/outdoor amenities and stormwater management that exceeds the Town’s standards.
4. The applicant shall provide a payment in lieu of providing 15% affordable housing units for the project.
5. The project shall include the components necessary for EV vehicle charging and E-bike charging; at least 50% of bicycle parking shall be covered.
6. The applicant will commit to never enclosing the rooftop pergola.
7. The applicant shall agree to dedicate additional right-of-way to Parker Street; consideration of the installation of a sidewalk along Parker Street shall be deferred to the special use permit process.

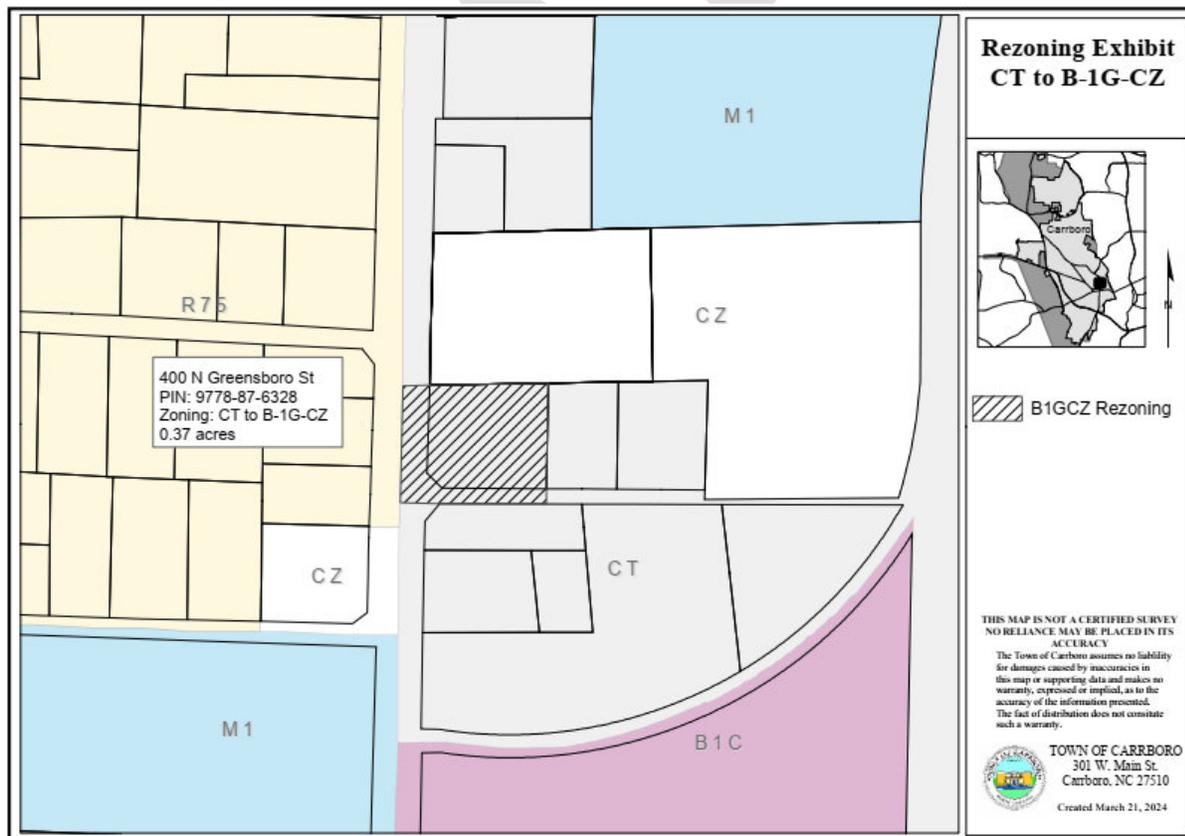
SECTION 2. This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote received the following vote and was duly adopted this ____ day of _____ 2024:

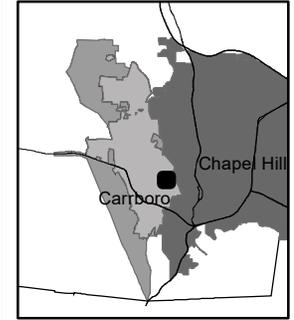
AYES:

NOTES:

ABSENT OR EXCUSED:



Proposed B-1G-CZ Rezoning



Rezone

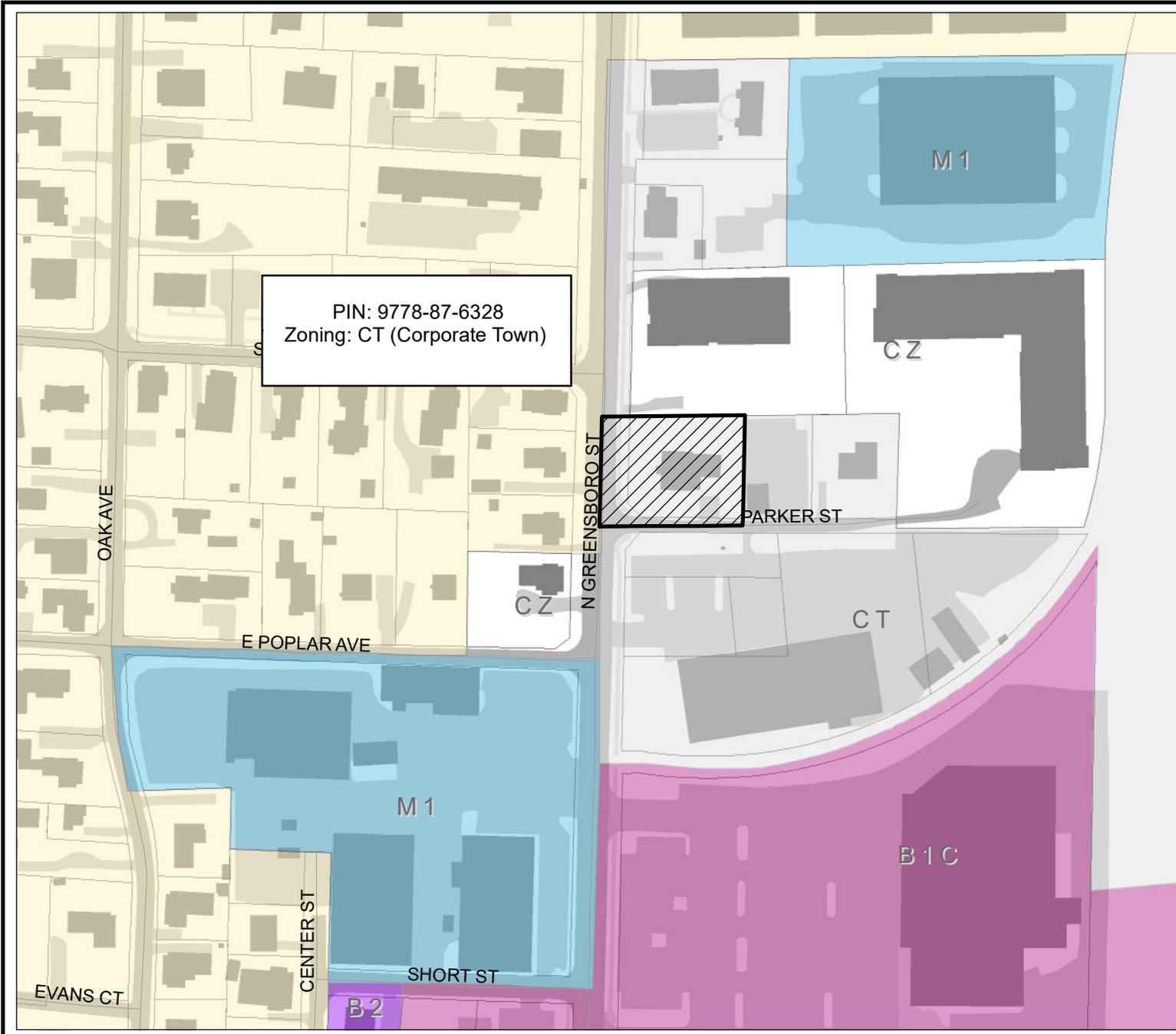
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TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27510

Created Sep. 15, 2023



PIN: 9778-87-6328
Zoning: CT (Corporate Town)



TOWN OF CARRBORO

NORTH CAROLINA

TRANSMITTAL

PLANNING DEPARTMENT

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

To: Advisory Boards

From: Tina Moon, Planning Administrator

Date: April 26, 2024

Subject: Request for Map Amendment to B-1G-CZ for 400 North Greensboro Street

PROJECT DESCRIPTION/BACKGROUND

Sam Mitchell, owner representative for Bison Lodge, LLC, has submitted a petition to change the zoning at 400 North Greensboro Street from CT (Corporate Town, Residential 40,000 square feet per dwelling unit) to B-1G-CZ (General Business, Residential 2,000 square feet per dwelling unit). The property currently contains a one-story single-family home dating to the first quarter of the twentieth century. The applicant is seeking to remove the home and construct a three-story brick building with seven (7) residential units and shared common areas. A rezoning is needed to allow the project to move forward. A vicinity map of the property is provided for information (*Attachment C*).

Advisory boards received a presentation on the proposal as part of a courtesy concept plan review in December 2022, and, at that time, the project included a small commercial space on the ground floor. While a commercial space is not currently envisioned as part of the project a few non-residential uses have been identified, setting in place the possibility for a small restaurant or office or similar non-residential use to become part of the development at some time in the future without necessitating the need for an amendment to the rezoning.

A draft ordinance for the proposed rezoning has been provided (*Attachment B*). The ordinance includes a list of draft conditions; it is anticipated that the conditions will be further modified during the joint review and public hearing process. The final list of conditions must be mutually agreed upon by the applicant and the Town. Should the Town Council approve the rezoning, the applicant would follow with an application for a special use permit-B. The special use permit involves a separate public hearing process; however, the main elements of the development proposal will be determined as part of the consideration of the rezoning.

REZONING OVERVIEW

The process for amending the official Carrboro Zoning Map is described in Article XX of the Land Use Ordinance. The request would be considered a minor map amendment, in that it involves fewer than five parcels and less than fifty acres. The petition form includes four key questions for the applicant to answer: A) how is the proposed rezoning consistent with Town plans and policies, B) in what way is the subject property particularly suited for the potential uses of the new district, C) how will the purposed rezoning affect the value of nearby buildings, and D) in what way does the rezoning encourage the most appropriate use of the land?

More specific information relating to conditional zoning is discussed in Section 15-141.4, of Article IX. As part of the application to rezone property to a conditional district (Section 15-141.4(d)) the applicant must submit a list of proposed conditions which may be in the form of written statements, graphic illustrations, or any combinations thereof, to be incorporated into the ordinance that rezones the property.

PETITIONERS/OWNERS

The petitioner for the rezoning request is Sam Mitchell, with Bison Lodge, LLC. The application materials—a short narrative, petition for change in zoning and illustrative site plan are provided as attachments E & F.

DESCRIPTION OF THE AREA

The subject property is located along the east side of North Greensboro Street between Shelton Street and East Poplar Street, and more specifically at the corner of North Greensboro and Parker streets. Shelton Station is adjacent to the north and Southern States is located to the south. There are two lots are between the subject property and the back section of Shelton Station, one of the properties contains a single family home and the other is used by Southern States for additional storage of plants; both lots use Parker Street to access North Greensboro. The commercial portion of Shelton Station is located on the adjacent property to the north. Former mill homes are located across the street along the west side of North Greensboro Street and with the exception of one home that has been converted to a hair salon, the houses are still used as single family homes.

The subject property may be more specifically identified by information in the table below.

Address	PIN	Existing Zoning	Proposed Zoning	Acres
400 North Greensboro	9778-87-6328	CT	B-1G-CZ	0.37

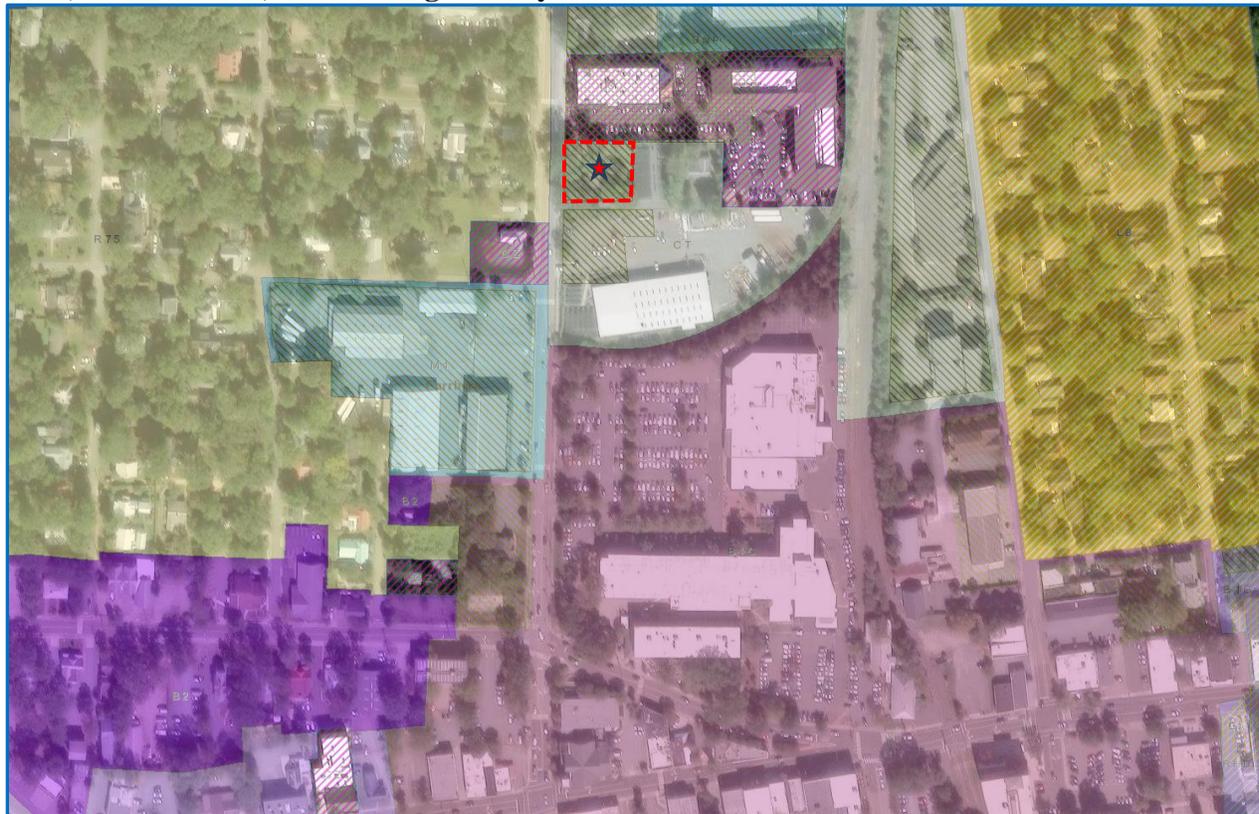
ADJACENT ZONING & LAND USES

The map below shows the site (outlined in red) and surrounding properties with the zoning classifications. The subject property is shaded in gray to indicate the CT Zoning District. Southern States, located adjacent to the south is also zoned CT. The large area of property that includes Carr Mill and much of the historic commercial district is zoned B-1C (Town Center Business).or to the south The Shelton Station property adjacent to the north is zoned B-1G-CZ and was developed subject

to a conditional zoning. The Fitch Lumber property, shown in blue, is zoned M-1 (Light Manufacturing). The darker purple is B-2 (Fringe Commercial). The light yellow hatched area to the east is the Lloyd-Broad Overlay District, and the almost transparent shading to the west covering Oak Avenue and parallel streets is R-7.5 (Residential, 7500 square feet per dwelling unit).

The diagonal hatching indicates that the site is part of Downtown Neighborhood Protection Overlay District (DNP). Commercially zoned properties in the DNP are subject to additional height, setback and design requirements where such lots abut or are located directly across the street from residentially zoned properties. A description of the DNP is provided in Section 15-143.4 of the Land Use Ordinance; the additional standards are outlined in Section 15-185.1.

Site (outlined in red) with Zoning Overlay



DENSITY AND DIMENSIONAL REGULATIONS

More specific information relating to the dimensional standards for the subject property and the surrounding residential districts is provided in the table below. A comparison of the density and dimensional requirements between the existing (CT) zoning district and proposed zoning district (B-1G-CZ) is also provided in the table and offers a sense of the potential development impact on adjacent properties, should the zoning change occur.

	Existing Zoning CT	Surrounding Zoning M-1	Surrounding Zoning R-7.5	Surrounding Zoning B-1C	Proposed Zoning – B-1G- CZ
Density	7,500 per dwelling unit	Residential uses not permitted	7,500 per dwelling unit	No minimum per dwelling unit	3,000 per dwelling unit
Height	Three Stories	Three Stories	35 feet	Three Stories	Three Stories
Setbacks	--/-- r/w; -- lot boundary	--/-- r/w; -- lot boundary	25/12.5 r/w; 10 lot boundary	--/-- r/w; -- lot boundary	--/-- r/w; -- lot boundary

As currently zoned, the property at 400 North Greensboro Street yields a base residential density of one (1) dwelling unit. The proposed rezoning from CT to B-1G-CZ, would allow up to five (5) dwellings units under the base zoning and a possible increase to seven (7) units using the affordable density bonus (adding one affordable unit and one market rate unit). As described in Section 15-182.4, A payment in lieu may count as an affordable unit.

COMPARISON OF ZONES

Zoning provides the planning mechanism that allows certain land uses to occur in defined areas or districts. Article IX of the LUO provides descriptions of the different zoning districts in the Town. Descriptions of the existing and proposed districts are provided below.

EXISTING DISTRICT - CT CORPORATE TOWN. This district is designed to create a visually attractive, commercial use district with flexible space. The district is intended to provide space for assemblage and research and development type enterprises. Any structure in this district which is proposed for non-residential use shall be located a minimum distance of 50 feet from any residential dwelling unit in the district that was in existence on July 1, 1985. In order to encourage the creation of flexible space, an average minimum building height of 18 feet for any principal structure is required. The continued use of existing residential dwelling units along North Greensboro Street is encouraged.

PROPOSED DISTRICT -- B-1(G) GENERAL BUSINESS, CONDITIONAL. This district is designed to accommodate a broad range of business uses. This district, because of its close proximity to established residential single family neighborhoods, is limited in the types of night uses permitted. Uses may be restricted in the hours of operation where the permit-issuing authority finds that such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area.

Development in conditional zoning districts follow the same regulations applicable to the corresponding conventional district, with regard to use and permitting requirements, as modified with the conditions and restrictions imposed as part of the legislative decision creating the district and applying it to a specific site.

The Table of Permissible Uses, found in Article X, Section 15-146 of the Town of Carrboro Land Use Ordinance (LUO) lists the land uses that are allowed in each zoning district along with permitting requirements (i.e. special use permit-A, special use permit-B, zoning permit). <http://www.townofcarrboro.org/DocumentCenter/View/691/Article-X-Permissible-Uses-PDF-with-table>

General Use Category	Number of Uses Permitted in CT District	Number of Uses Permitted in B-1G District	Change in Uses Permitted CT to B-1G
Residential (1.000)	23	22	-1
Sales and Rental of Goods (2.000)	7	7	0
Office, Clerical, Research (3.000)	6	6	0
Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment (4.000)	1	1	0
Educational, Cultural, Religious, Philanthropic, Social (5.000)	6	7	+1
Recreation (6.000)	8	8	0
Institutional Residence or Care of Confinement Facilities (7.000)	3	3	0
Restaurant, Bar, Nightclub (8.000)	0	6	+6
Motor Vehicle-related (9.000)	0	2	+2
Storage and Parking (10.000)	1	1	0
Scrap Materials Salvage Yards, Junkyards, Automobile Graveyards (11.000)	0	0	0
Services and Enterprises Related to Animals (12.000)	0	1	+1
Emergency Services (13.000)	4	4	0
Agricultural, Silvicultural, Mining, Quarrying (14.000)	0	0	0
Public/Semi-public Utility Facilities (15.000)	4	7	+3
Dry Cleaner, Laundromat (16.000)	1	1	0
Utility Facilities (17.000)	7	6	-1
Towers and Related Structures (18.000)	4	4	0
Open Air Markets, Horticultural Sales (19.000)	2	3	+1
Funeral Home (20.000)	0	0	0
Cemetery (21.000)	1	1	0
Day Care (22.000)	4	4	0
Temporary Structure or Parking (23.000)	1	1	0
Bus Station (24.000)	1	1	0
Commercial Greenhouses (25.000)	0	0	0
Subdivisions (26.000)	2	2	0
Combination Uses (27.000)	1	1	0
Planned Unit Developments (28.000)	0	0	0*
Special Events (29.000)	1	1	0
Planned Industrial Development (30.000)	0	0	0*
Off-Premises Signs (31.000)	0	0	0
Village Mixed Use (32.000)	0	0	0*
Temporary Lodging (34.000)	2	1	-1

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

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

The table compared the number of permitted uses in the conventional zoning districts. It should be noted, the for a conditional district the number of uses may be limited by conditions in the illustrative site plan and rezoning ordinance. In the proposal for 400 North Greensboro Street, the applicant is only seeking to use the property for multifamily (1.330), and potentially one or more non-residential land uses such a restaurant (8.100), or office with few customers (3.120) or perhaps a doctor's office (3.130). The final selection to be determined as part of the public hearing process.

ANALYSIS

The conditional zoning mechanism allows for the approval of a site-specific development plan and conditions tailored to the individual project. The conditions, including the site plan, become binding to the rezoning and subsequent permit, in this case a special use permit-B, reviewed by the Board of Adjustment. If approved, the existing corporate town classification would be removed, and the new general business classification applied.

The specific project design and number of residential units would be approved as part of the rezoning. The proposal is currently designed with 7 residential units. The applicant is considering whether to include a few non-residential uses to allow some flexibility to modify the project at a future time without having to go back and amend the conditional district. This would involve listing these uses on the illustrative site plan and rezoning ordinance. While the project is being designed for a specific group of people, the additional uses may be of benefit if one of the parties choses to leave the project and/or the group wishes to rearrange/reallocate some of the interior space for other needs.

The draft rezoning ordinance includes seven conditions. Advisory boards and commission members may suggest additional conditions as part of their review comments. The applicant has committed to provide a payment in lieu of one affordable unit. The applicant has also committed to providing EV charging facilities and E-bike charging facilities. The final location of these facilities will be determined as part of the permit application, which includes a greater level of detail than the rezoning exhibit. As noted above, the special use permit process will involve another public hearing, but the overall design must remain consistent with the illustrative site plan approved as part of the rezoning. The applicant will be required to demonstrate compliance with all sections of the Land Use Ordinance as part of the special use permit.

Consistency with Adopted Plans/Policies

The approval of a legislative decision requires a statement of consistency with adopted plans or policies. Carrboro Connects 2022-2042 Comprehensive Plan provides goals, strategies, and projects that are expected to guide the Town’s growth and development. In the Petition for Change of Zoning the petitioners have provided responses in support of their assertion that the proposed zoning district classification is consistent with the Town’s adopted plans and policies. Staff has identified the following relevant sections of Carrboro Connects Comprehensive Plan to assist in the project review. Advisory board members are encouraged to review the strategies and staff comments in the table below. Suggestions for the inclusion or removal of strategies may be included as part of advisory board comments.

Chapter	Applicable Strategies	Staff Comments
Affordable Housing	<p>Consistent with: -</p> <p>Inconsistent with: -</p> <p>Inconclusive: -</p>	The applicant has identified a commitment to provide a payment in lieu of affordable housing due to small unit count (7)

<p>Climate Action & Environment</p>	<p>Consistent with: -</p> <p>Inconsistent with: -</p> <p>Inconclusive: ENV1.1, ENV 1.2</p>	<p>(ENV 1.1 & 1.2) The development will meet the requirements of Article XIX for Tree Canopy, Screening, and Landscaping. Requirements in the Land Use Ordinance offer a recommended plant list, however not all of these are native plants. In addition, the developer has committed to detaining post-development runoff to the pre-development runoff levels for the 25-year storm and has indicated exploring pervious pavers and on-site rain garden features to help mitigate stormwater.</p>
<p>Transportation & Mobility</p>	<p>Consistent with: 2.1, 3.1, 4.1, 4.2</p> <p>Inconsistent with: -</p> <p>Inconclusive: -</p>	<p>(2.1) The development meets the “close-to-transit” definition in <i>Carrboro Connects</i>, via the F route, and will provide new density near the downtown.</p> <p>(3.1) The development is adding bicycle parking, 50% covered, and is located on North Greensboro Street where existing bike and pedestrian infrastructure may incentivize residents to use alternative transportation.</p> <p>(4.1) The project will provide 10 bicycle parking spaces, with 50% sheltered, increasing bicycle parking infrastructure for residents.</p> <p>(4.2) The illustrative site plan shows an approximate number of parking spaces based on one & two bedroom units and a possible small non-residential use. The final number of spaces and location of EV charging/E-bike charging facilities will be determined as part of the SUP application. The applicant has conveyed an intention to minimize parking on site.</p>
<p>Green Stormwater Infrastructure, Water, & Energy</p>	<p>Consistent with: ENERGY 1.1</p> <p>Inconsistent with: -</p> <p>Inconclusive: GSI 2.1 ENERGY 1.3</p>	<p>(GSI 2.1) The development will meet the 15% canopy requirement, which may provide more shade on the adjacent bike and pedestrian infrastructure and improve the tree canopy downtown.</p> <p>(ENERGY 1.1 & 1.3) The project’s proximity to existing transit and bike/ped facilities aim to limit additional GHG emissions from automobile use by new residents. The project will meet state energy codes, and notes higher density offers higher efficiency of systems—more detail is needed on weatherization efforts and/or renewable energy opportunities (either in construction of the project, or for residents that live there)</p>
<p>Economic Sustainability</p>	<p>Consistent with: 2.1</p> <p>Inconsistent with: -</p> <p>Inconclusive:</p>	<p>(2.1) The project increases residential density in the downtown. While the development is not mixed-use, the applicant notes that the development could in the future convert the first floor to commercial use (though this is not yet formally included in the rezoning request).</p>

	-	
RPCR	N/A	Not applicable
Land Use	<p>Consistent with: 1.3, 2.2, 8.1</p> <p>Inconsistent with:</p> <p>Inconclusive: 1.3, 4.1, 2.5, 3.1</p>	<p>(1.3) The current proposal will meet the downtown architectural standards. The project is notably larger in scale than the remaining mill homes along North Greensboro Street, however, it includes elements found in Carr Mill and Shelton Station, such as the brick exterior, flat roof with parapet, albeit in a more classical, almost Beaux Arts design.</p> <p>(2.2) The project is pursuing rezoning for greater density along a transit node and in the downtown.</p> <p>(8.1) The development increases density along North Greensboro Street, aligning with the Future Land Use map and changes identified in both the Downtown Corridor Plan and the Estes and N. Greensboro Corridor Plan</p> <p>(4.1) The development’s proximity to transit, connection to existing bike and pedestrian facilities, and reduced parking does meet the plans goals of promoting development that reduces GHG emissions by reducing auto-dependence, however it exceeds the parking maximum.</p>

RELEVANT ORDINANCE PROVISIONS

Section 15-322 of the LUO describes advisory board review of rezoning requests. The Planning Board is required to:

- 1) 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.
- 2) 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. A recommendation template has been provided to facilitate the advisory boards in their preparation of formal comments (Attachment A).

In addition, per Section 15-322(d), advisory board members shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. 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.

Section 15-325 of the LUO specifies that when considering a rezoning, the central issue before the Council is “whether the proposed amendment advances the public health, safety or welfare.” The Council is obligated to disregard advantages or disadvantages to the individual requesting the change and must consider the impact of the proposed change on the public at large. Summary comments are offered below. Staff will continue to consider the policy issues surrounding this rezoning request and may update these comments in the final report prepared for public hearing.

CONSIDERATIONS/SUMMARY COMMENTS

- Adopted policies support the establishment of conditional districts.
- The conditional district process (legislative action for the rezoning) is expected to mitigate the associated impacts of the additional density requested as part of this development.
- Town policies acknowledge an interest and need for increased residential density along priority corridors, with diverse housing options.
- The site’s location provides connections to surrounding neighborhoods within reasonable distances for walking, biking.
- The proposal to rezone to B-1G retains the commercial classification.
- The applicant identified policy provisions appear to be consistent with the request.

ACTION REQUESTED

The agenda item includes the review and consideration of a map amendment to change the zoning for 400 North Greensboro Street from CT to B-1G-CZ. In preparing recommendations, advisory boards should state whether the board recommends that the Council approve the rezoning and provide a statement of consistency to support its recommendation, noting specific town policies that support the request. A recommendation template that identifies policies relevant to the application has been provided for the boards to use. Boards may choose to add (or remove) policies and/or to include any additional statement to support their recommendation. Advisory board recommendations and comments will be included in the public hearing materials provided to the Town Council on May 21st.

Relevant excerpts from the Land Use Ordinance, articles IX and XX are provided in Attachment H.



JIM SPENCER ARCHITECTS, PA
109A Brewer Lane | PO Box 385
Carrboro, NC 27510
919.960.6680

August 31, 2023

Conditional Zoning Submittal Narrative/Potential Conditions

Summary

Sam Mitchell and partners propose a conditional rezoning and construction of a new building on the lot at 400 North Greensboro Street in Carrboro. The existing zoning is CT, with adjacent zoning lots of CT, B1-G CZ, and R75. The proposed building is a multifamily owner-occupied three-story building with minimal on-site parking to its rear (east) and other exterior improvements. We have listed below specific categories related to the proposed rezoning and our approach to each. Please also find attached the Owner's answers to Question 7 of the rezoning petition application. Thank you for your consideration and we look forward to moving this project forward.

Zoning

After discussions with town staff, this application proposes rezoning the lot from CT to B-1-G CZ. This zone fits with the town's new comprehensive plan goals of increased density and mixed residential and commercial projects downtown.

Appendix I – Storm Water Control

It is likely that no storm water on site treatment would be required for the parcel is the net increase in impervious is less than 5,000 square feet. However, it has been discussed with staff and the owners are committed to some on-site storm water control measures. Our current proposal is for a combination of pervious pavers and on-site rain garden features. Details will follow, but our commitment is that the project will detain the post-development runoff to the pre-development runoff levels for the 25-year storm.

Table 15-178 and Appendix D – Parking

B-1-G presumptive, 1.330 apartments 1.5 per unit; ground level retail or convertible space 8.100 – 1 per 100 square feet

We anticipate a potential change in the minimum parking standards for the town during this process. However, the owners would like to minimize their parking on site regardless of the presumptive requirements. The current proposal is for eleven parking spaces (ten regular plus one accessible).

15-178 – Downtown Architectural Standards

Rezoning to B1-G CZ would require compliance or alternate approval. The current proposal would meet these requirements.

Primary Entry articulated by recess or awning; Glazing primary façade 60% ground, 40% overall; 20% shade free area; parking area shading/shielding; maximum 45' building bay articulation; exterior materials exclusions.

15-181 – Lot Size

The proposed building/lot meets this requirement, the site is approximately 15,955 square feet. B1-G CZ requires 3,000 sf for residential, otherwise no limit)

15-182 – Density/Unit Count

The current lot (if rezoned to B1-G CZ supports 5 units at the roughly 16,000 square feet on the lot. The proposal is for seven (7) units. We plan to meet the requirements of section 15-141.4 (k) to achieve this higher density. Current plans call for meeting the provisions of at least three of:

- ~ Storm water management
- ~ Water conservation
- ~ Energy conservation
- ~ On site energy production
- ~ Provisions for affordable housing
- ~ Alternate transportation
- ~ Provisions for public art/outdoor amenities

Details will be presented during the rezoning and SUP processes.

15-182.4 – Affordable Units

Owners plan to offer a payment in lieu for affordable housing due to small unit count.

15-183 – Lot width

B1-G no minimum required

15-184 – Setbacks

Current proposal will meet requirements of this section.

B1-G – none required except for street (30' from street center line)

15-185 – Height

Proposal will meet requirements of this section.

B1-G– lot is adjacent to N. Greensboro (over 50' ROW) and Parker Street (16' ROW).

15-185.1 – Downtown Neighborhood Protection Overlay (DNP)

Proposal will meet the requirements of this section.

DNP buffer, but lot is not adjacent to residential except across the street. Review Article XII on this and setbacks. Front façade has 10' setback at two stories to meet this requirement.

Service Area

Proposal is to use roll-out type recycling and refuse containers.

Article XIX – Tree Canopy/Screening/Landscaping

Proposal will meet the requirements of this section, or will propose alternate compliance if street or other site trees must be removed due to construction activities. These are being reviewed by an arborist.

15% tree canopy required

Screening – may ask for some relief due to safety/openness of this urban location.

Note: current landscaping on site plan is illustrative only. We are having existing site trees reviewed by an arborist and landscaping designed by David Swanson.

Lighting/ Light Spill/ Performance Standards

To be addressed in SUP process, plan is to meet standards.

Recreation Amenities/Open Space requirements

Will meet requirements of Downtown Architectural Standards/amenities instead due to B-1-G CZ zoning.

Please let us know if you need additional information. We look forward to working through the approvals process on this exciting project for downtown Carrboro.

Regards,

A handwritten signature in black ink that reads "Jim Spencer III". The signature is written in a cursive, flowing style.

Jim Spencer, AIA, LEED BD+C
Jim Spencer Architects, PA

EXISTING STRUCTURES AND USES:

c. OWNER: _____

TAX MAP: _____ BLOCK: _____ LOT: _____ ACREAGE: _____ PARCEL: _____

SUBDIVISION NAME: _____ FRONTAGE: _____ DEPTH: _____

EXISTING STRUCTURES AND USES:

d. OWNER: _____

TAX MAP: _____ BLOCK: _____ LOT: _____ ACREAGE: _____ PARCEL: _____

SUBDIVISION NAME: _____ FRONTAGE: _____ DEPTH: _____

EXISTING STRUCTURES AND USES:

5. NAMES AND ADDRESSES OF ALL PERSONS WHOSE PROPERTY OR ANY PART THEREOF IS WITHIN 1000 FEET IN ANY DIRECTION OF THE PROPERTY SOUGHT TO BE REZONED.

NAME	ADDRESS
See attached list and map	

6. HAS THIS PROPERTY BEEN THE SUBJECT OF A ZONING CHANGE SINCE 1979? YES NO
If "YES", WHEN? 6/20/2006 estimated

7. PLEASE SET OUT AND EXPLAIN THOSE CIRCUMSTANCES PERTINENT TO THE PROPERTY AND THE MANNER IT RELATES TO THE TOWN THAT DEMONSTRATE THAT THE PROPOSED ZONING DISTRICT CLASSIFICATION IS CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN. MORE SPECIFICALLY:

(a) How do the potential uses in the new district classification relate to the existing character of the area?

See attached narrative for each question

(b) In what way is the property proposed for rezoning peculiarly/particularly suited for the potential uses of the new district?

See attached narrative for each question

(c) How will the proposed rezoning affect the value of nearby buildings?

See attached narrative for each question

(d) In what way does the rezoning encourage the most appropriate use of the land in the planning jurisdiction?

See attached narrative for each question

WHEREFORE, THE PETITIONER REQUESTS THAT THE OFFICIAL ZONING MAP BE AMENDED AS SET OUT ABOVE. THIS IS THE 31st DAY OF August, 2023.

PETITIONER'S SIGNATURE:  

PLEASE NOTE:

For all the persons identified under "5", please attach addressed envelopes with the correct postage. Oversight of this requirement could delay processing your rezoning request.



JIM SPENCER ARCHITECTS, PA
109A Brewer Lane | PO Box 385
Carrboro, NC 27510
919.960.6680

Revised 3.21.24
Conditional Rezoning Petition Application
400 North Greensboro Street, Carrboro, North Carolina 27510

7). PLEASE SET OUT AND EXPLAIN THOSE CIRCUMSTANCES PERTINENT TO THE PROPERTY AND THE MANNER IT RELATES TO THE TOWN THAT DEMONSTRATE THAT THE PROPOSED ZONING DISTRICT CLASSIFICATION IS CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN. MORE SPECIFICALLY:

(a) How do the potential uses in the new district classification relate to the existing character of the area?

Increased residential density on the property at 400 North Greensboro would align its use more closely with the intensity of use on neighboring properties. To the South are bustling commercial properties including Southern States, Harris Teeter, Carr Mill and Fitch Lumber, all of which are housed in large-scale buildings. Immediately to the North of the property is Shelton Station, a mixed-use development that includes a substantial mid-rise apartment building. A small apartment building, which the B-1-G CZ designation would allow, is a fitting use in the context of those neighboring properties.

This would be consistent with the development strategy stated in the new Carrboro Connects Comprehensive Plan which asks to “identify and consider additional density, where appropriate, to allow for housing or mixed-use development along N. Greensboro St.” 400 North Greensboro is a property that is ideally located for greater density.

b) In what way is the property proposed for rezoning peculiarly/particularly suited for the potential uses of the new district?

The property is situated at the northern end of a busy section of North Greensboro Street bracketed by larger buildings including The 203 Project to the South and Shelton Station to the North. 400 North Greensboro is a lot that is like a “missing tooth” in that area of greater density. At the same time, 400 North Greensboro is across the street from residential properties and at the northern edge of the area where Downtown Carrboro becomes decidedly more residential. Currently the site is occupied by a one-story, vacant single-family residence that is somewhat out of place amongst its larger neighbors. A multi-family building as allowed by the proposed B-1-G CZ zoning, could better match the massing of surrounding buildings and the use group with near neighbors.

A change of zone to B-1-G CZ would also fit with the Carrboro Connects Comprehensive Plan goal of promoting walkable, “15-minute neighborhoods”. The additional residents of a multi-family residential building at 400 North Greensboro would contribute to the vibrancy of Downtown Carrboro.

(c) How will the proposed rezoning affect the value of nearby buildings?

The change of zoning to B-1-G CZ, which would allow for more smaller units, bringing more residents per acre to the property, will increase foot traffic to surrounding businesses. And, given that most of the nearby buildings hold commercial enterprises, more potential visitors to the businesses in those buildings should increase the value of those buildings. This is consistent with the goals of the Carrboro Connects Comprehensive Plan, which states:

“identify areas along key corridors in which a range of housing and economic development strategies can result in high-quality redevelopment opportunities that are walkable, transit-accessible, and near amenities such as parks, community services, and businesses.”

(d) In what way does the rezoning encourage the most appropriate use of the land in the planning jurisdiction?

The Carrboro Connects Comprehensive Plan states the intention to “Use (zoning) Ordinance to identify opportunities to strategically support higher density levels in appropriate locations, and incentivize strategies that yield a higher number of residential units of smaller sizes”. As noted above, 400 North Greensboro is adjacent to and near other multi-family residential properties, and is a clear opportunity where B-1-G CZ rezoning would allow development a “higher number of residential units of smaller sizes” in a key location in Downtown Carrboro. This project fits closely the description of the goals of both the CT district and the B-1-G, to have more density in an attractive, complementary building. The rezoning of this site will simply provide more residential density per the goals of the new Carrboro Connects Comprehensive Plan.

MITCHELL

400 N. GREENSBORO ST.
CARRBORO, NC 27510

PIN: 9778876328



SECTION #	REGULATION	EXISTING CT w/DNP OVERLAY	PROPOSED OPTIONS: B1-G, CRZ
15-146	PERMISSIBLE USES	MULTI-FAMILY LIMITED TO ~14,375 SF	1.331; 1.332 (MF RES); FUTURE- 2.120; 3.110; 3.120; 3.220; 8.100; 8.200
15-178	DOWNTOWN ARCHITECTURAL STANDARDS	ARTICULATED ENTRIES GLAZING: 60% GROUND, 40% OVERALL, 20%	ARTICULATED ENTRIES GLAZING: 60% GROUND, 40% OVERALL, 20% SHADE FREE
15-181	LOT SIZE	40,000	3,000 SF RESIDENTIAL (OTHERWISE NO LIMIT)
15-182	RESIDENTIAL DENSITY	7,500	3,000
15-182.4	AFFORDABLE UNITS	15% COUNCIL GOAL	15% COUNCIL GOAL OR PAYEMENT IN LIEU
15-183	LOT WIDTH	100	NO MINIMUM
15-184	SETBACKS	(N/A WITH SURVEY EST. PROPERTY LINE) SRTEET ONLY, 30' CENTERLINE	(N/A WITH SURVEY EST. PROPERTY LINE) SRTEET ONLY, 30' CENTERLINE
15-185	BUILDING HEIGHT	(3) STORIES	ADJACENT TO N. GREENSBORO (OVER 50' ROW) & PARKER ST. (16' ROW) 3 STORIES
15-185.1	DNP BUFFER	BULDING LENGTH ALONG BOUNDARY <80% LOT OR 80' MAX	BULDING LENGTH ALONG BOUNDARY <80% LOT (86.4') OR 80' MAX, 10' STEP BACK FROM SECOND FLOOR FACADE
15-291	PARKING	2/DWELLING UNIT	1/BED, MAX 2/UNIT
	BICYCLE PARKING	1.5/UNIT	1.5/UNIT / 50% COVERED
15-250	SCREENING OF DUMPSTERS	REQUIRED IF CLEARLY VISIBLE	REQUIRED IF CLEARLY VISIBLE
15-308	SCREENING & TREES	"C" TYPE	(MULTI-FAMILY AS COMMERCIAL) = 15% CANOPY "C" TYPE
15-196	RECREATIONAL AREA POINTS		THIS ZONING REQUIRES DLA AND URBAN AMENITIES POINTS IN LIEU OF RA
15-198	OPEN SPACE		THIS ZONING REQUIRES DLA AND URBAN AMENITIES POINTS IN LIEU OF RA

NOTE REGARDING PARKING:
APPLICANT ACKNOWLEDGES THAT FUTURE USE OF PORTIONS OF THE PROPERTY USED FOR COMMERCIAL USE WOULD REQUIRE COMPLIANCE WITH THE TOWN OF CARRBORO LAND USE ORDINANCE

SHEET LIST	
TITLE	#
COVER SHEET	CVR
EXISTING SURVEY	EC1
SITE LAYOUT PLAN	C3.1
GRADING & DRAINAGE	C3.2
UTILITY PLAN	C6.1
FLOOR PLATES	A1
ELEVATIONS	A2
PERSPECTIVES	A3
STRUCTURAL (RESERVED)	S
MECHANICAL (RESERVED)	M
PLUMBING (RESERVED)	P
ELECTRICAL (RESERVED)	E
FIRE ALARM (RESERVED)	FA



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JSPENCERJSA@GMAIL.COM

OWNER

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SAM MITCHELL
BISON LODGE, LLC
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NEW HAVEN, CT 06510

sam@mitchellstudio.net
203-668-7746

STRUCTURAL ENGINEER

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HILLSBOROUGH, NC 27278

jczar@sarmiran.com
919-880-9492

MEP

NAME
ADDRESS
PHONE
EMAIL

SITE & CIVIL

MICHAEL FIOCCO
CIVIL CONSULTANTS, INC
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DURHAM, NC 27707

michael.fiocco@civil-consultants.com
919-599-6696

GENERAL CONTRACTOR

NAME
ADDRESS
PHONE
EMAIL

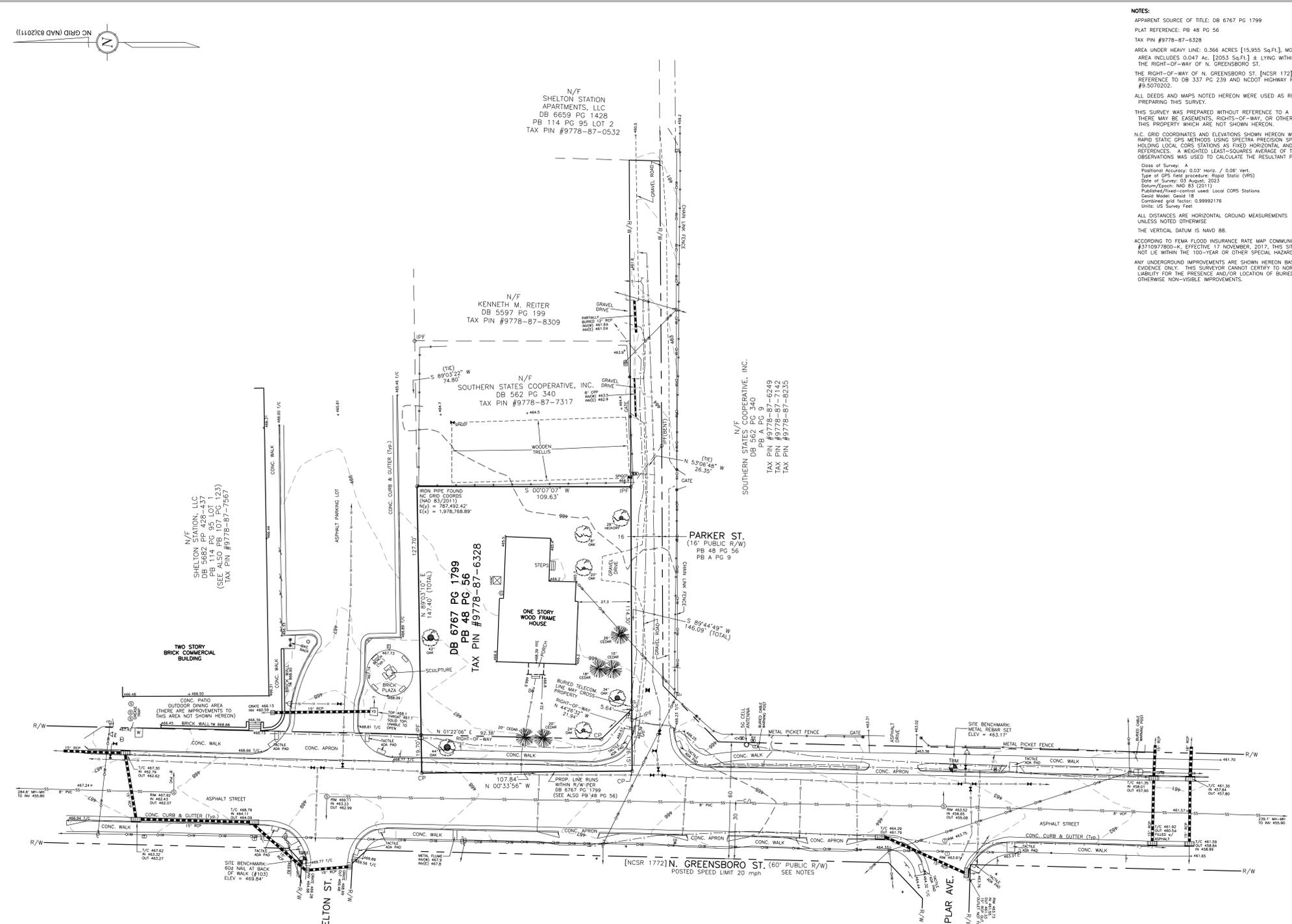
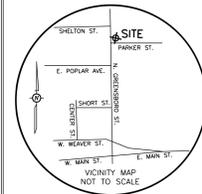
**CONDITIONAL
REZONING
APPLICATION**

DATE 2ND REVISION 2024.03.21

THESE DRAWINGS ARE INSTRUMENTS OF SERVICE AND AS SUCH SHALL REMAIN THE PROPERTY OF THE ARCHITECT. THEY HAVE BEEN PREPARED FOR A SPECIFIC PROJECT AND SHALL NOT BE USED IN CONJUNCTION WITH ANY OTHER PROJECT WITHOUT THE PRIOR WRITTEN PERMISSION OF THE ARCHITECT. ALL RIGHTS RESERVED. \\JIMS-NEW-PC\jso-active\MITCHELL-400 N GREENSBORO\SCHEMATICS\2023-07-26_400-SD.rvt

LEGEND OF STANDARD SYMBOLS

○	UTILITY POLE	—	STORM WATER LINE
○	UTILITY ANCHOR	—	SANITARY SEWER LINE
○	LIGHT POLE	—	OVERHEAD WIRE
○	SPOT LIGHT	—	BURIED ELECTRIC LINE
○	ELECTRIC MANHOLE	—	BURIED GAS LINE
○	ELEC. SERVICE/VALVE	—	BURIED TELECOM LINE
○	ELECTRICAL CABINET	—	BURIED WATER LINE
○	HEATING/AIR UNIT	—	METAL FENCE LINE
○	TELECOM. PEDESTAL	—	WOODEN FENCE LINE
○	TELECOM. MANHOLE	—	TREE LINE
○	TELECOM. VAULT	—	IRON PIPE FOUND
○	TRAFFIC SIGNAL CABINET	—	IRON REBAR FOUND
○	GAS METER	—	MAGNETIC NAIL FOUND
○	WATER VALVE	—	CHISELED "X" FOUND
○	WATER METER	—	CONCRETE MONUMENT FOUND
○	IRIGATION CONTROL VALVE	—	MAGNETIC NAIL SET
○	BACKFLOW PREVENTOR	—	CHISELED "Y" SET
○	WATER VALVE MANHOLE	—	COMPUTED POINT (NO CORNER MONUMENT FOUND OR SET)
○	FIRE HYDRANT	—	N/O = NOW OR FORMERLY
○	POST INDICATOR VALVE	—	FTE = FINISHED FLOOR ELEVATION
○	FIRE DEPT. CONNECTION	—	H/C = HANDICAP
○	WELL	—	RCP = CONC. STORM PIPE
○	SANITARY MANHOLE	—	CMP = CORRUGATED PLASTIC PIPE
○	SANITARY CLEANOUT	—	VCP = VITRIFIED CLAY PIPE
○	CONCRETE CATCH BASIN	—	CDL = CHORD
○	CAST IRON CATCH BASIN	—	Typ = TYPICAL
○	DROP INLET w/ GRATE	—	T/C = TOP OF CURB
○	CONCRETE YARD DRAIN	—	EP = EDGE OF PAVEMENT
○	STORM PIPE END	—	TM = TOP OF WALL
○	SIGN	—	TS = TOP OF STEPS
○	MONITORING WELL	—	BS = BOTTOM OF STEPS
○	MAIL BOX	—	BM = INVERT ELEVATION
○	BOLLARD	—	C/L = CENTERLINE
○		—	TEMP. BENCH MARK
○		—	SURVEY CONTROL PT.



NOTES:

APPARENT SOURCE OF TITLE: DB 6767 PG 1799
 PLAT REFERENCE: PB 48 PG 56
 TAX PIN #9778-87-6328

AREA UNDER HEAVY LINE: 0.366 ACRES [10,955 Sq.Ft.], MORE OR LESS
 AREA INCLUDES 0.047 AC. [1,053 Sq.Ft.] ± LYING WITHIN
 THE RIGHT-OF-WAY OF N. GREENSBORO ST.

THE RIGHT-OF-WAY OF N. GREENSBORO ST. [NCSR 1772] WAS RE-ESTABLISHED
 REFERENCE TO DB 337 PG 239 AND NCDOT HIGHWAY PLANS FOR PROJECT
 #9-5070202.

ALL DEEDS AND MAPS NOTED HEREON WERE USED AS REFERENCES IN
 PREPARING THIS SURVEY.

THIS SURVEY WAS PREPARED WITHOUT REFERENCE TO A CURRENT TITLE REPORT.
 THERE MAY BE EASEMENTS, RIGHTS-OF-WAY, OR OTHER MATTERS AFFECTING
 THIS PROPERTY WHICH ARE NOT SHOWN HEREON.

N.C. GRID COORDINATES AND ELEVATIONS SHOWN HEREON WERE ESTABLISHED BY
 RAIND STATIC GPS METHODS USING SPECTRA PRECISION SP-80 GPS EQUIPMENT,
 HOLDING LOCAL CORS STATIONS AS FIXED HORIZONTAL AND VERTICAL
 REFERENCES. A WEIGHTED LEAST-SQUARES AVERAGE OF THREE INDEPENDENT
 OBSERVATIONS WAS USED TO CALCULATE THE RESULTANT POSITIONS.

Class of Survey: A
 Horizontal Accuracy: 0.03' Horiz. / 0.06' Vert.
 Type of GPS Field Procedure: Road Static (RS)
 Date of Survey: 03 August, 2023
 Datum/EPOCH: NAD 83 (2011)
 Publication/Field-Control: None
 Local CORS Stations
 Grid Model: State 18
 Combined grid factor: 0.99992176
 Units: US Survey Feet

ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS
 UNLESS NOTED OTHERWISE.

THE VERTICAL DATUM IS NAVD 88.

ACCORDING TO FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL
 #371097800-K, EFFECTIVE 17 NOVEMBER, 2019, THIS SITE DOES
 NOT LIE WITHIN THE 100-YEAR OR OTHER SPECIAL HAZARD FLOOD ZONE.

ANY UNDERGROUND IMPROVEMENTS ARE SHOWN HEREON BASED ON SURFACE
 EVIDENCE ONLY. THIS SURVEYOR CANNOT CERTIFY TO NOR ACCEPT
 LIABILITY FOR THE PRESENCE AND/OR LOCATION OF BURIED OR
 OTHERWISE NON-VISIBLE IMPROVEMENTS.

SURVEYOR'S CERTIFICATE
 MICHAEL A. MCKENNA, certify that this map
 was drawn under my supervision from an actual
 survey made under my supervision (description
 recorded in book 8782, Page 1299, etc.);
 that the topographer not surveyed one acre;
 indicated as drawn from information found in book
 8782, page 1299; that the date of precision
 as calculated is 1,902.53; that this map meets
 the requirements of The Standards of Practice for
 Surveying in North Carolina (21 NCAC 56.1600); that
 topographic data is shown per an actual ground survey;
 and that the vertical accuracy of topographic data
 conforms to the United States National Map Accuracy
 Standards.

Witness my original signature, registration number
 and Seal this 17th day of August, A.D. 2023.

Michael A. McKenna
 SURVEYOR LICENSE NUMBER L-4519

NEVER FINGER, STAMP AND SEAL THE SEALED DOCUMENT
 UNLESS YOU ARE RECORDING, SALS OR CORRECTING.



SSM
 SACKS SURVEYING & MAPPING, P.C.

Land Surveyors
 3308-B Edgefield Road
 Greensboro, NC 27409
 (336) 951-0904
 FAX: 951-0908
 WWW.SSM.LAND
 P800.LIC.01-2200





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MITCHELL

400 N. GREENSBORO ST.
 CARRBORO, NC 27510
 PIN: 9778876328

**CONDITIONAL
 REZONING
 APPLICATION**

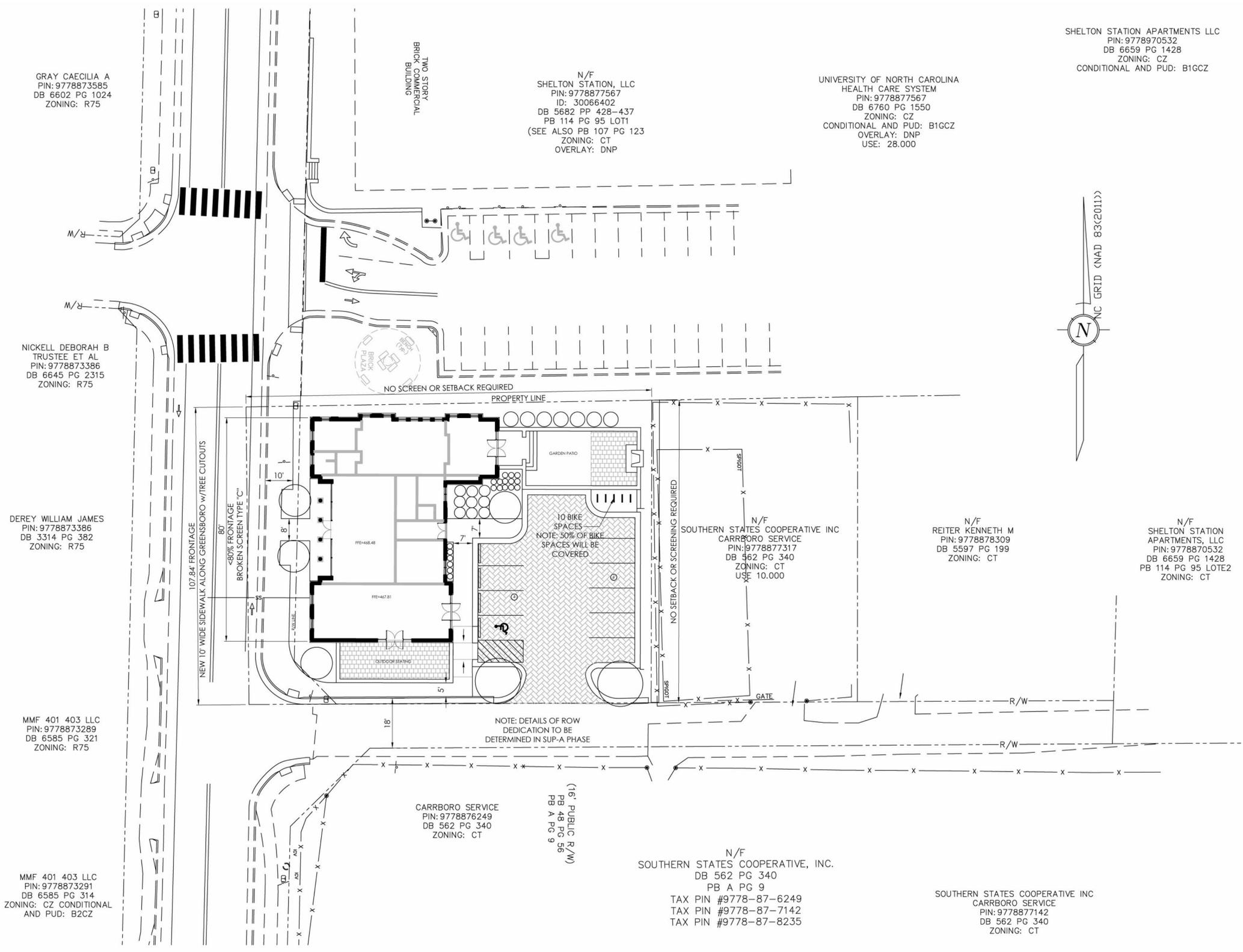
No.	Description	Date

DATE: 2024.03.20
 DRAWN BY: CIVIL/JSA
 CHECKED BY: JSA

SITE LAYOUT PLAN

C3.1

THESE DRAWINGS ARE INSTRUMENTS OF SERVICE AND AS SUCH SHALL REMAIN THE PROPERTY OF THE ARCHITECT. THEY HAVE BEEN PREPARED FOR A SPECIFIC PROJECT AND SHALL NOT BE USED IN CONNECTION WITH ANY OTHER PROJECT WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT. ALL RIGHTS RESERVED.



GRAY CAECILIA A
 PIN: 9778873585
 DB 6602 PG 1024
 ZONING: R75

NICKELL DEBORAH B
 TRUSTEE ET AL
 PIN: 9778873386
 DB 6645 PG 2315
 ZONING: R75

DEREY WILLIAM JAMES
 PIN: 9778873386
 DB 3314 PG 382
 ZONING: R75

MMF 401 403 LLC
 PIN: 9778873289
 DB 6585 PG 321
 ZONING: R75

MMF 401 403 LLC
 PIN: 9778873291
 DB 6585 PG 314
 ZONING: CZ CONDITIONAL
 AND PUD: B2CZ

TWO STORY
 BRICK COMMERCIAL
 BUILDING

N/F
 SHELTON STATION, LLC
 PIN: 9778877567
 ID: 30066402
 DB 5682 PP 428-437
 PB 114 PG 95 LOT1
 (SEE ALSO PB 107 PG 123
 ZONING: CT
 OVERLAY: DNP

UNIVERSITY OF NORTH CAROLINA
 HEALTH CARE SYSTEM
 PIN: 9778877567
 DB 6760 PG 1550
 ZONING: CZ
 CONDITIONAL AND PUD: B1GCZ
 OVERLAY: DNP
 USE: 28.000

SHELTON STATION APARTMENTS LLC
 PIN: 9778970532
 DB 6659 PG 1428
 ZONING: CZ
 CONDITIONAL AND PUD: B1GCZ

N/F
 SOUTHERN STATES COOPERATIVE INC
 CARRBORO SERVICE
 PIN: 9778877317
 DB 562 PG 340
 ZONING: CT
 USE: 10.000

N/F
 REITER KENNETH M
 PIN: 9778878309
 DB 5597 PG 199
 ZONING: CT

N/F
 SHELTON STATION
 APARTMENTS, LLC
 PIN: 9778870532
 DB 6659 PG 1428
 PB 114 PG 95 LOTE2
 ZONING: CT

CARRBORO SERVICE
 PIN: 9778876249
 DB 562 PG 340
 ZONING: CT

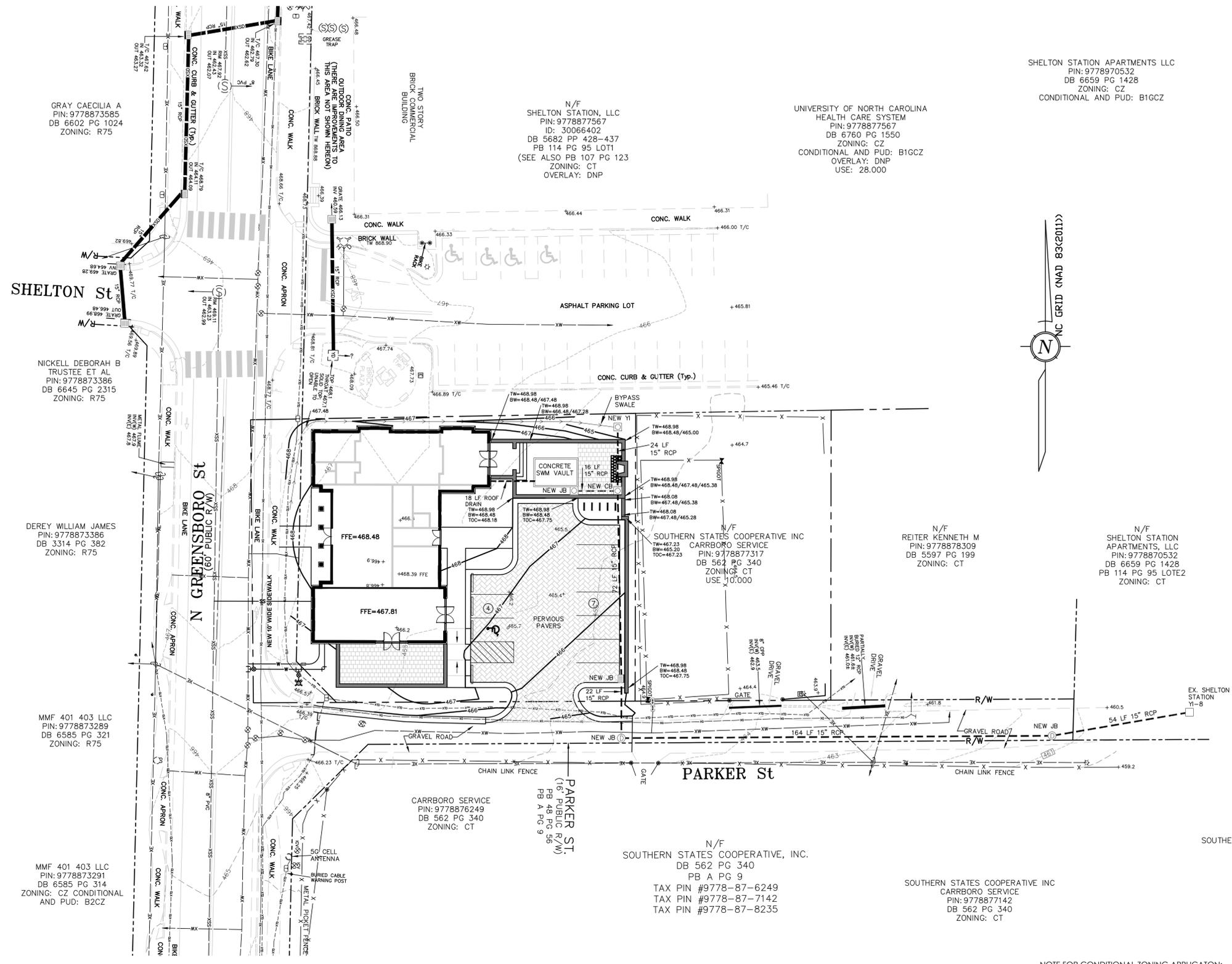
(16' PUBLIC R/W)
 PB 48 PG 56
 PB A PG 9

N/F
 SOUTHERN STATES COOPERATIVE, INC.
 DB 562 PG 340
 PB A PG 9
 TAX PIN #9778-87-6249
 TAX PIN #9778-87-7142
 TAX PIN #9778-87-8235

SOUTHERN STATES COOPERATIVE INC
 CARRBORO SERVICE
 PIN: 9778877142
 DB 562 PG 340
 ZONING: CT

① SITE PLAN
 1" = 20'-0"

400 GREENSBORO STREET
 CARRBORO, NORTH CAROLINA
GRADING & DRAINAGE PLAN



SHELTON STATION APARTMENTS LLC
 PIN: 9778970532
 DB 6659 PG 1428
 ZONING: CZ
 CONDITIONAL AND PUD: B1GCZ

N/F
 SHELTON STATION, LLC
 PIN: 9778877567
 ID: 30066402
 DB 5682 PP 428-437
 PB 114 PG 95 LOT1
 (SEE ALSO PB 107 PG 123)
 ZONING: CT
 OVERLAY: DNP

UNIVERSITY OF NORTH CAROLINA
 HEALTH CARE SYSTEM
 PIN: 9778877567
 DB 6760 PG 1550
 ZONING: CZ
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GRAY CAECILIA A
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 DB 6585 PG 321
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MMF 401 403 LLC
 PIN: 9778873291
 DB 6585 PG 314
 ZONING: CZ CONDITIONAL
 AND PUD: B2CZ

CARRBORO SERVICE
 PIN: 9778876249
 DB 562 PG 340
 ZONING: CT

N/F
 SOUTHERN STATES COOPERATIVE, INC.
 DB 562 PG 340
 PB A PG 9
 TAX PIN #9778-87-6249
 TAX PIN #9778-87-7142
 TAX PIN #9778-87-8235

SOUTHERN STATES COOPERATIVE INC
 CARRBORO SERVICE
 PIN: 9778877142
 DB 562 PG 340
 ZONING: CT

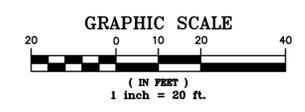
SOUTHERN STATES COOPERATIVE INC
 CARRBORO SERVICE
 PIN: 9778879235
 DB 562 PG 340
 ZONING: CT

NOTE FOR CONDITIONAL ZONING APPLICATION:
 THIS PLAN IS ILLUSTRATIVE OF THE GRADING AND DRAINAGE FOR THE SITE - IT DOES NOT REFLECT THE FINAL CONFIGURATION OF THE PARKER STREET ENTRY AND PARKING - SEE SHEET C3.1 FOR SITE PLAN

CONDITIONAL ZONING DRAWING SET



Know what's below.
 Call before you dig.
 (Or call: 1-800-632-4949)



REV.	DATE	DESCRIPTION
1ST REVISION	2023.12.07	TOWN OF CARRBORO COMMENTS 1
2ND REVISION	2024.03.20	TOWN OF CARRBORO COMMENTS 2

DATE: AUGUST 31, 2023

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 SHEET NO.
C3.2



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 JSPENCERJSA@GMAIL.COM

MITCHELL

400 N. GREENSBORO ST.
 CARRBORO, NC 27510
 PIN: 9778876328

**CONDITIONAL
 REZONING
 APPLICATION**

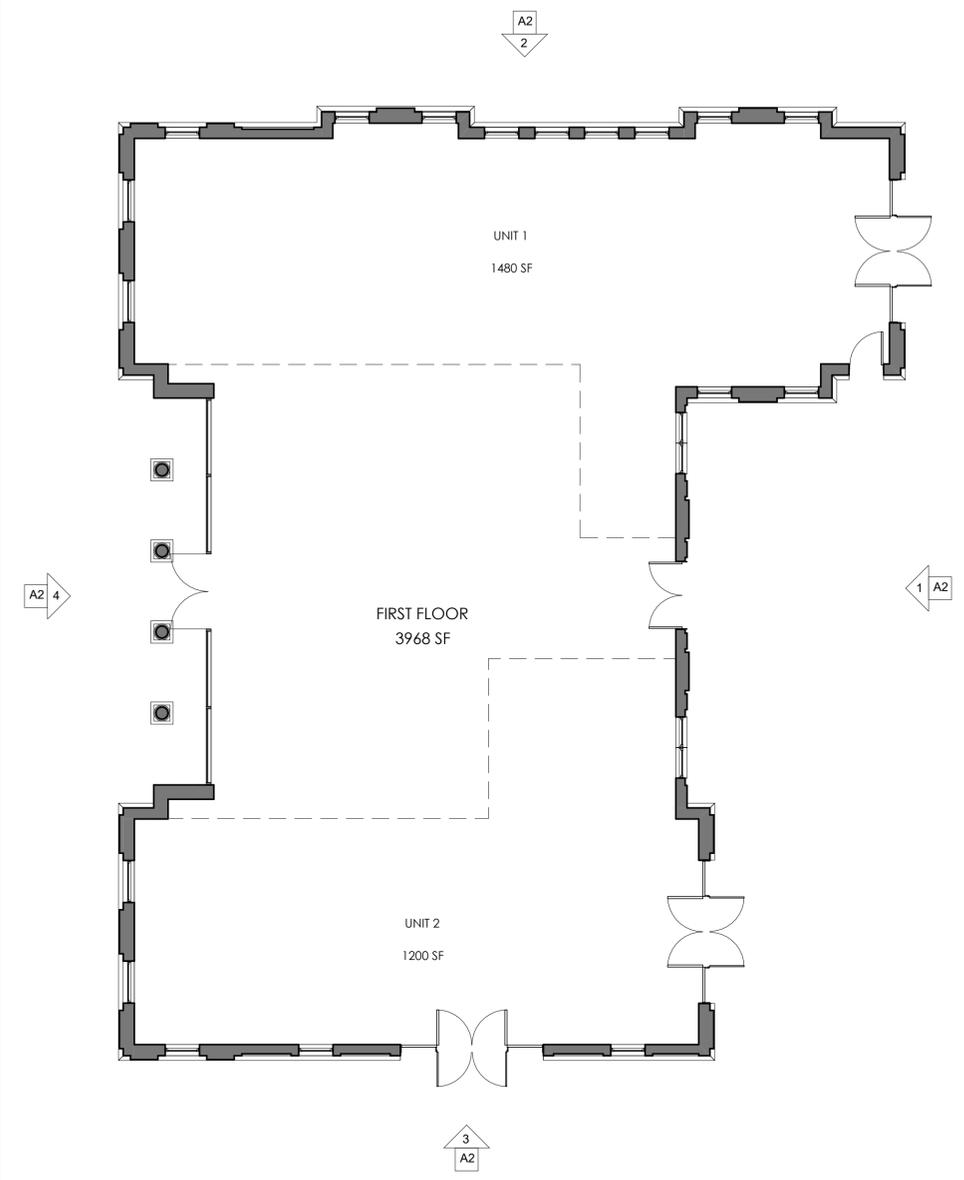
No.	Description	Date

DATE: 2023.08.21
 DRAWN BY: JSA
 CHECKED BY: Checker
 1ST REVISION: 2023.12.07
 2ND REVISION: 2024.03.20

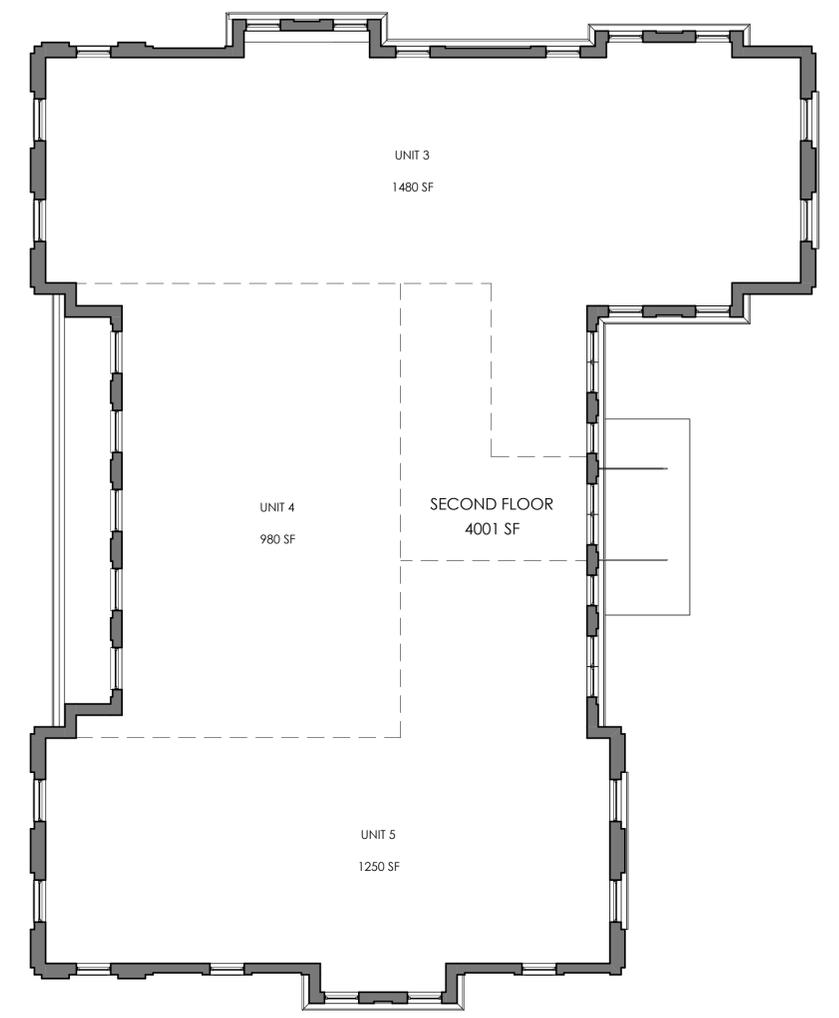
FLOOR PLATES

A1

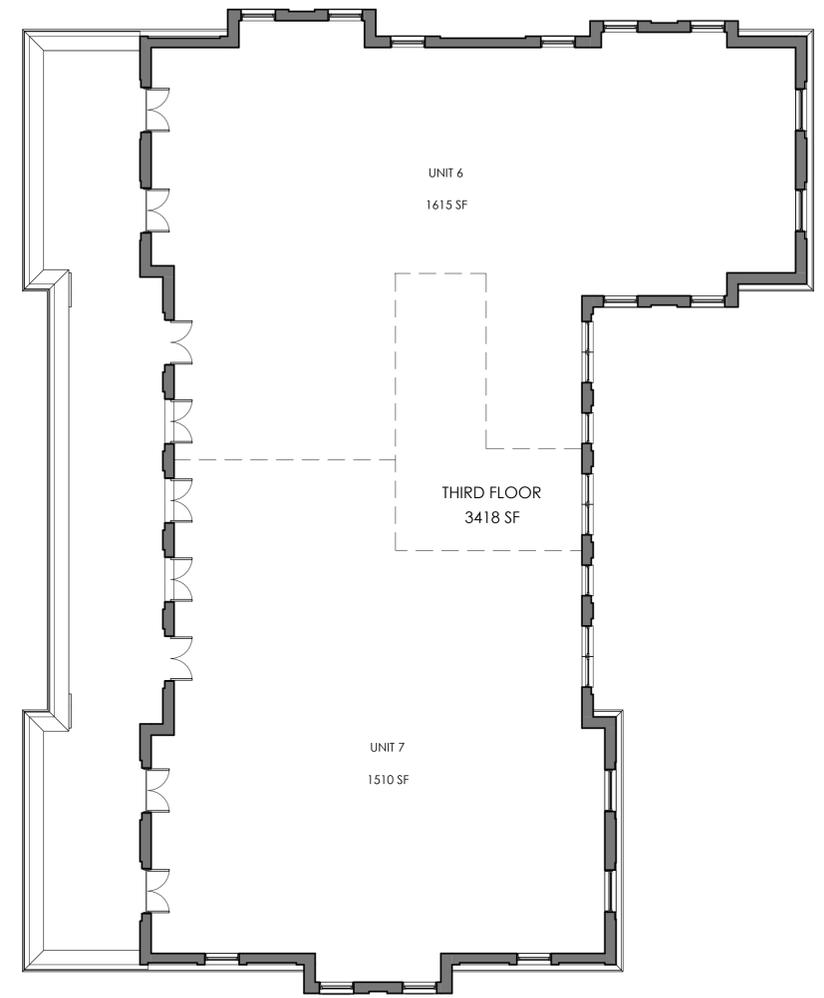
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① FIRST FLOOR
 1/8" = 1'-0"



② SECOND FLOOR
 1/8" = 1'-0"



③ THIRD FLOOR
 1/8" = 1'-0"

INTERIOR AREA & UNITS BY LEVEL

LEVEL	AREA	UNITS
FIRST FLOOR	3,968 SF	2
SECOND FLOOR	4,001 SF	3
THIRD FLOOR	3,418 SF	2
TOTAL	11,387 SF	



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MITCHELL

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 CARRBORO, NC 27510
 PIN: 9778876328

**CONDITIONAL
 REZONING
 APPLICATION**

No.	Description	Date

DATE: 2023.08.21
 DRAWN BY: JSA
 CHECKED BY: JCS
 1ST REVISION: 2023.12.07
 2ND REVISION: 2024.03.20

ELEVATIONS

A2



④ WEST ELEVATION
 1/8" = 1'-0"



② NORTH ELEVATION
 1/8" = 1'-0"



① EAST ELEVATION
 1/8" = 1'-0"



③ SOUTH ELEVATION
 1/8" = 1'-0"

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TOWN OF CARRBORO

JOINT REVIEW MEETING

301 West Main Street, Carrboro, North Carolina 27510

THURSDAY, DECEMBER 1, 2022

MEMBERS	GUESTS	STAFF
Braxton Foushee, Chair	Sam Mitchell, 400 N. Greensboro	Trish McGuire
David Clinton		Tina Moon
Catherine Fray		Marty Roupe
Elmira Mangum		Ann Stroobant
Susan Poulton		Laura Janway
Bruce Sinclair		Marsha Pate
Rachel Gaylord-Miles		Anne-Marie Vanaman
		Jon Hartman-Brown

Town Council: Damon Seils (Mayor), Randee Haven O'Donnell, Barbara Foushee, Eliazar Posada

Absent/Excused: (2) Amina, Tooloee

I. WELCOME & AGENDA ADJUSTMENTS

Foushee opened the meeting at 7:30 PM, welcoming attendees and guests.

II. JOINT REVIEW ITEMS

A. Concept Plan 400 North Greensboro Street

Sam Mitchell presented a concept for a proposed multi-family building near Shelton Station and Southern States. The design is intended to reflect elements of Carr Mill. Mr. Mitchell is seeking to develop project that will provide an age-in place type cooperative type community for himself and several friends. There will be no affordable housing offered, as the units are for the collective group. There may be one extra unit for a care taker/ building manager. Mr. Mitchell responded to several questions by advisory board members and clarified several points. With regard to green features, Mr. Mitchell indicated that they anticipate using permeable pavement as much as possible, geothermal heating, solar and tree canopy. All required codes will be followed including the EV and handicap parking requirement. Minimal parking will be requested as there is no retail planned for the first floor.

B. Anticipated Projects for 2023

Moon noted the projects that are currently under review, including three rezonings: 904 Homestead Road, 1307 W. Main Street and the proposed residential component to South Green. The Jade Creek project is also under review; this is the special use permit-A project on Old NC 86. Moon provided a brief overview of the relevant sections of the Land Use Ordinance that specify the roles of advisory boards in the development review process.

8:15 PM Joint Meeting Closed

39 **III. APPROVAL OF MINUTES**

40 Fray made a motion to approve the October 20, 2022, meeting minutes; Clinton seconded the
41 motion. The October 20, 2022, minutes were approved unanimously.
42

43 **IV. OTHER MATTERS**

44 **A. Concept Plan 400 North Greensboro Street**

45 The Planning Board discussed the concept plan and had no comments at this time.
46

47 **B. Approval of 2023 Meetings Calendar**

48 Poulton made a motion to adopt the meetings calendar. Gaylord-Miles seconded the motion. The
49 vote was unanimous.
50

51 **V. ADJOURNMENT**

52 Motion was made unanimously to adjourn the meeting. The December 1, 2022 Planning Board
53 meeting was adjourned at 8:23PM.
54

TRANSPORTATION ADVISORY BOARD MINUTES

Thursday, December 1, 2022

BOARD MEMBERS PRESENT

Dave Pcolar, Chair
Elyse Keefe
Lenore Jones-Peretto
David Swan

COUNCIL LIAISON PRESENT

Damon Seils

STAFF PRESENT

Trish McGuire

GUESTS PRESENT

Heidi Perov

II. Call to order

The meeting was called to order at the conclusion of the Joint Review segment of the meeting, at approximately 8:14 pm.

III. Approval of Minutes (October 20, 2022)

- Under III. Discussion Items, Jones-Peretto's name is misspelled and is to be corrected.
- A motion was made by Keefe to approve the October 20, 2022, minutes as amended, and seconded by Jones-Peretto. Motion passed unanimously (Keefe, Jones-Peretto, Pcolar, Swan).

IV. Action & Discussion Items

- **Concept Plan for 400 North Greensboro Street**

The TAB discussed the site, the orientation, and the surrounding uses, looked at the plans and Google Map images of the area, and also the site plan of Shelton Station showing the bicycle and pedestrian easement. Members noted that the proposal was for a private cooperative-type multi-family use. There was mention of trying to connect the 400 North Greensboro proposal to the bike lane connection via Parker Street to the easement established as part of Shelton Station project, which runs parallel to the railroad right of way, as part of a future North Greensboro Street to Lloyd Street bike/ped connection. As presented, the building would be a multi-family residential development; a business component could be included. There was interest in a possible caregiver unit, which would be consistent with idea of including an affordable unit, recognizing that the design is still conceptual, especially with regard to the plan for the first floor.

The desired density for the project will require a rezoning. Would parking reduction lower the ADA parking requirement? Would a van-accessible space be appropriate? Would dumpster or roll-out carts be required? These types of details will be worked out as the site plan is developed. Similarly, fire review has not occurred yet. Both would /may affect space available for parking. Staff noted that a variance is not the mechanism to pursue changes in parking requirements. The Town's parking standards are presumptive and required to be flexibly administered and can

result in a requirement for more or an allowance for less than the presumptive number of spaces.

Members expressed support for the concept and the design and noted the following:

- Encourage the project to include less parking, and
- Inclusion of charging for electric vehicles encouraged

- Approval of 2023 Meetings Calendar

As the calendar discussion got underway, Pcolar noted that he was continuing to serve, but has technically rolled off and is waiting for someone to be appointed to replace him. Swan is also at the end of his second term. So moving into 2023, there are and will be vacancies. Staff will check on the exact timing of his term. Pcolar has submitted two applicants to the Clerk for the Council's consideration. There was discussion of the need to recruit new applicants to serve. Swan noted that he knows of someone who may want to apply and Pcolar noted they should look to the website.

The draft 2023 meeting calendar was reviewed and discussed. Members identified the following changes:

Designate the 2nd meeting of the month on a quarterly basis for Safe Routes to Schools items with two before the summer break and two after. March, May, September, and November were suggested. A meeting in June is to be included to get plans in place and ready for the fall activities.

The SRTS meeting should start earlier- 5:00 pm is the time that the meetings started previously – and be held remotely.

Staff will modify the calendar to show the SRTS meetings and bring back to the next meeting for approval.

- Transportation Updates –

Three transportation items before the Town Council since last report to TAB in October.

11/1/2022 - Orange County Transit Plan 2020 Update – report and adoption of resolution supporting plan

- Includes funding for Town projects and additional projects under unfunded priorities

11/15/2022 – Transportation Projects Update – report on all projects underway. TAB discussed the scheduling of crosswalk installations going in under the ADA ramp project NCDOT's contractor is completing around Carrboro and Chapel Hill. Consider adjusting report to highlight new crosswalk locations. TAB also discussed the scheduling of the bike loop detectors project at Roberson/E. Main as the timing change recently had removed the automated green for each segment of the intersection (staff reported that this item is moving forward with final design and administrative steps – hopefully towards bidding in 2024 and that there had been a change to the signal timing recently due to significant traffic congestion after the restriping). TAB members and guests reported concerns about safety and confusion related to the flashing yellow signal at the entrance to the Carr Mill property (near Thai Station) and noted that community cyclists are suggesting one-way paring of travel on 100 blocks of E. Weaver

and E. Main.

11/15/2022 – Transportation Projects for Regional Flexible Funding – priority projects noted. Staff analysis of costs and scoring rubric underway to decide on submittal of projects by 12/9/22 deadline.

V. Adjourn

Swan made a motion to adjourn the meeting; Keefe seconded the motion.
The meeting was adjourned at 9:27 pm.



Economic Sustainability Commission

MINUTES of the December 14, 2022 regular meeting.

MEMBERS PRESENT: Vice Chair Jim Porto, Courtney McWilliams, Jack Moracco, Scott Powell, Susan Romain, and Randee Haven-O'Donnell. Sheila Dalton arrived at 7:15pm.

MEMBERS NOT PRESENT: Chair David Jessee, Kenyatta Clark, and Nadia Taylor.

STAFF PRESENT: Jon Hartman-Brown, Staff Liaison

GUESTS PRESENT:

Vice Chair Porto called the regular meeting to order at 6:11pm at Carrboro Town Hall.

1. Consider Minutes from the November 9, 2022 meeting

Mr. Powell moved to approve the minutes as presented, seconded by Ms. McWilliams with unanimous in-favor of the motion.

2. Committee and Staff Reports

a. Carrboro Business Alliance Update

There were no new items to report.

b. Racial Equity Commission Comprehensive Plan Review Update

There were no new items to report.

c. BIPOC Business Update

Mr. Hartman-Brown stated that BIPOC Businesses would be featured each Tuesday of December on the Town's social media channels.

d. Staff Update

Mr. Hartman-Brown stated staff are working on getting the parking study updates finalized and follow-up reports from the initial COVID-19 Grants the Town issued.

3. Concept Plan Review for 400 N. Greensboro St.

Mr. Hartman-Brown introduced the item and provided an updated on the site plans. The Commission discussed concerns about what happens to the building after it is no longer owned by this group and questions about if this is the highest and best use for the property. Ms. McWilliams made a motion to provide the following comments to the developer: concerns about the long-term viability of the development and how the property will be disposed of after the owner's are no longer in control of the property, that sidewalks are made to be ten feet

wide, the existing trees are maintained, and clarity on long-term viability of parking and parking needs. Mr. Moracco seconded the motion and the motion passed with 4 in-favor and 0 against.

4. Article 46 Funds Budget

Mr. Hartman-Brown introduced and summarized the item and request of the Commission. The Commission questioned and discussed how 203 Project advertising dollars would be spent and opportunities to use the funds for façade enhancements. Ms. McWilliams made a motion to approve the budget including the staff proposed changes of offering BIPOC entrepreneurs scholarships to a co-working facility rather than one-on-one support. Mr. Powell seconded the motion and the motion passed with 4 in-favor and 0 against.

5. Tourism Assets Exercise

Due to a lack of time the exercise was deferred until the next regular meeting.

6. Commission Announcements

There was no announcements for the Commission.

A motion was made by Ms. McWilliams to adjourn the meeting with members voting in-favor of the motion. The meeting adjourned at 7:28pm.

ARTICLE IX

ZONING DISTRICTS AND ZONING MAP

PART I. ZONING DISTRICTS

Section 15-135 Residential Districts Established.

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

(b) The WR (watershed residential) district is also established. All land within this district is located within the University Lake Watershed, and while this district is designed to achieve the objectives identified in subsection (a), it is also intended to protect the community water supply by allowing residential development of the land within the University Lake Watershed only at reduced density levels. **(AMENDED 12/7/83; 05/15/90)**

(c) The R-R (rural residential) district is designed to accommodate the residential and related uses as well as several additional uses that would be appropriate in the more sparsely populated areas of the town's joint planning transition area or extraterritorial planning area, but that would be inappropriate within the more intensively developed residential zones. **(AMENDED 11/14/88)**

(d) The R-S.I.R. (suitable for intensive residential) zone is designed (i) to encourage high density residential development that is compatible with the housing element of the town's Comprehensive Plan, and (ii) to locate this high density development in areas most suitable for it, thereby reducing pressure for growth in less desirable locations and reducing urban sprawl. Land in this zone is deemed especially suitable for intensive residential development because of (i) the availability of police, fire, and sanitation service at low marginal cost due to existing service patterns, (ii) the availability of public water and sewer service, (iii) the ample road system serving the area, (iv) the compatibility of existing development in the area with high density residential development, and (v) the compatibility of high density residential development with environmental concerns, especially water quality. Developers are encouraged to construct housing that is consistent with the town's housing objectives through density bonuses, as set forth in Section 15-182.1.

(e) The R-S.I.R.-2 zoning district is designed to serve essentially the same purposes as the R-S.I.R. zone, but the maximum density allowed in the R-S.I.R.-2 district is less than that permitted in the R-S.I.R. district (see Section 15-182.1). Except as otherwise specifically provided in this chapter, all regulations and standards applicable to the R-S.I.R. district are also applicable to the R-S.I.R.-2 district. **(AMENDED 11/10/81)**

(f) **REPEALED 12/7/83**

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Section 15-135.1 Conservation District. (AMENDED 12/7/83)

There is hereby established a conservation (C) district. The purpose of this district is to protect the public health, safety, and welfare by severely restricting development within and adjacent to certain lakes, ponds, watercourses, streams, creeks, drainage areas, floodplains, wetlands, and other flood-prone areas within the University Lake Watershed. The limited development allowed within a conservation district not only minimizes the danger to the community water supply from the more intensive development of this land but also allows this land to act as a natural buffer between more intensively developed areas and the watercourses contained within a conservation district. (AMENDED 12/7/83)

Section 15-136 Commercial Districts Established. (AMENDED 2/4/86; 5/28/02)

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

- (1) **B-1(C) TOWN CENTER BUSINESS.** This district is designed to encourage and accommodate a unified, compact, contiguous shopping and entertainment area focused around restaurants, specialty shops, arts and crafts. This area is intended for development around a theme or themes consistent with the Carr Mill, The Station, and historic or old Carrboro. The area is intended to accommodate the pedestrian user. (AMENDED 6/09/98)
- (2) **B-1(G) GENERAL BUSINESS.** This district is designed to accommodate a broad range of business uses. This district, because of its close proximity to established residential single family neighborhoods, is limited in the types of night uses permitted. Uses may be restricted in the hours of operation where the permit-issuing authority finds that such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area. (AMENDED 12/08/92; 6/09/98; 6/20/06)
- (2.1) **(EAT) RESTAURANT DISTRICT OVERLAY.** This overlay district is designed to accommodate on-premises (inside and outside) dining 8.100 and 8.200 restaurant uses in the B-1(g) General Business district. Because of the B-1(g) district's close proximity to established residential single-family neighborhoods, the EAT overlay is restricted to properties a minimum distance of one property width from abutting residential zones and is limited in the types of night uses permitted. In addition, emphasis is given to the existing restrictions in the B-1(g) district and the ability of the permit-issuing authority to limit hours of operation where such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area. Use of property within the overlay district for 8.100 and 8.200 purposes shall require the issuance of a special use permit-A. (AMENDED 03/21/95)
- (3) **B-2 FRINGE COMMERCIAL.** This district is a transitional district which is designed to accommodate commercial uses in areas that formerly were residential but that now may be more desirable for commercial activities due to high traffic volumes and

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proximity to other nonresidential districts. At the same time, continued residential use of existing and nearby structures, and preservation of the existing character and appearance of this area is encouraged. Accordingly, however, whenever the use of the land in this district is changed to commercial, it is intended and desired that existing residential structures be converted and adapted to commercial use rather than new buildings constructed, and to encourage this, the regulations for this district allow development at a lower density than is permitted in the B-1 districts and permit uses that tend to generate minimal traffic. In this way, the B-2 district should provide a smoother transition from the more intensively developed B-1 areas to residential areas. Any development within the B-2 district shall comply with the following requirements: **(AMENDED 9/06/88; 6/20/06)**.

- a. To the extent practicable, development shall otherwise retain, preserve and be compatible with the residential character of the older homes within and immediately adjacent to this district;
 - b. To the extent practicable, vehicle accommodation areas associated with uses on lots in this district shall be located in the rear of buildings so that parking areas are not readily visible from the streets; and
- (4) **B-3 NEIGHBORHOOD BUSINESS.** This district is designed to accommodate commercial needs arising at the neighborhood level, such as grocery stores, branch banks, gas sales, and the like, as well as other commercial and office uses that are of such size and scale that they can compatibly coexist with adjoining residential neighborhoods. To insure compatibility between B-3 areas and the neighborhoods, no B-3 district shall be greater than five acres, and no areas shall be zoned B-3 if any portion of a pre-existing business district lies within one-half mile in any direction. **(AMENDED 3/7/2006)**
- (5) **B-4 OUTLYING CONCENTRATED BUSINESS.** This zone is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.
- (6) **B-5 WATERSHED COMMERCIAL.** This district is designed to accommodate commercial uses within the University Lake Watershed area without adversely affecting the community water supply.
- (7) **CT CORPORATE TOWN.** This district is designed to create a visually attractive, commercial use district with flexible space. The district is intended to provide space for assemblage and research and development type enterprises. Any structure in this

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district which is proposed for non-residential use shall be located a minimum distance of 50 feet from any residential dwelling unit in the district that was in existence on July 1, 1985. In order to encourage the creation of flexible space, an average minimum building height of 18 feet for any principal structure is required. The continued use of existing residential dwelling units along North Greensboro Street is encouraged. **(AMENDED 6/20/06)**

- (8) **B-3-T TRANSITION AREA BUSINESS.** This district is designed to accommodate commercial needs arising in the town's more rural neighborhoods, especially in the joint planning transition areas, and which are more appropriately dealt with at the neighborhood level than at a community or regional level. To insure compatibility between B-3-T areas and their associated rural neighborhoods, no B-3-T district shall be greater than five acres, and no areas shall be zoned B-3-T if any portion of a pre-existing business district lies within one-half mile in any direction. **(AMENDED 11/14/88)**
- (9) **O OFFICE.** This district is intended to provide locations for low intensity office and institutional uses. This district is designed for parcels three (3) acres or less in size. Rather than have new buildings constructed, it is intended and desired that any existing residential structures within the district be converted and adapted to office or institutional use. In order to assure compatibility of residential conversions or new office construction with existing and future residential development, specific performance measures to mitigate negative impacts of office development will be required. Any development within the Office (O) district shall comply with the following requirements:
- a. Type A screening will be required between any non-residential use and adjacent properties, except for openings necessary to allow pedestrian movement between the office or institutional use and adjacent properties;
 - b. To the extent practicable, vehicle accommodation areas associated with uses on lots in this district shall be located in the rear of buildings so that parking areas are not readily visible from the streets, unless doing so would adversely affect adjoining residential properties;
 - c. Whenever a new building is erected in this district, (i) the exterior walls shall be constructed of materials commonly used on the exterior walls of single-family residences (such as brick, stone, wood, or fabricated residential lap siding made of hardboard, vinyl, or aluminum); (ii) the pitch of the roof shall have a minimum vertical rise of one foot for every five feet of horizontal run; provided that this requirement shall not apply to lots that have frontage on any street where, within the same block as the property in question, at least 75% of the buildings (in place on April 16, 1991) that front along the same side of the street do not have roofs that comply with this pitched roof standard; and (iii) windows shall be of a type commonly used in single-family residences;

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- d. Manufacturer's specifications for proposed outdoor lighting fixtures (including candlepower distribution) must be included in the submitted plans and maximum illumination areas must be delineated on the site plan. Light sources (light bulbs or tubes) shall be shielded to reflect down onto the ground and not out onto neighboring properties. **(AMENDED 4/16/91)**
- (10) **O/A OFFICE/ASSEMBLY.** This district is intended to provide for office, administrative, professional, research, and specialized manufacturing (such as light assembly and processing) activities in close proximity to an arterial street. This district is intended to provide employment near residential areas; therefore, the required development standards are intended to be compatible to adjacent residential uses and provide a park-like setting for employment. It is strongly encouraged that development in the Office/Assembly zoning district be designed so that employees may easily utilize alternative forms of transportation (such riding buses, cycling or walking) to commute to their place of employment. Any development within the Office/Assembly (O/A) district shall comply with the following requirements: **(AMENDED 5/25/99; 5/28/02)**
- a. No area less than five contiguous acres may be zoned as an Office/Assembly district;
 - b. The performance standards (Article XI, Part I) applicable to 4.000 classification uses in business zones shall govern uses in an Office/Assembly zone;
 - c. As shown in Section 15-308, Table of Screening Requirements, screening will be required between non-residential uses in the Office/Assembly district and adjacent residential properties;
 - d. Manufacturer's specifications for proposed outdoor lighting fixtures (including candlepower distribution) must be included in the submitted plans and maximum illumination areas must be delineated on the site plan. Light sources (light bulbs or tubes) shall be shielded to reflect down onto the ground and not out onto neighboring properties. **(AMENDED 4/16/91)**
 - e. Not more than 25 percent of the total building gross floor constructed within the proposed district may be used for uses permissible within this district that fall within the 2.000 classification.
- (11) **O/A CU OFFICE/ASSEMBLY CONDITIONAL USE.** **(REPEALED 6/22/21)**

Section 15-136.1 Historic Rogers Road Districts Established. **(AMENDED 6/18/2019; 2/9/21)**

- (a) The Historic Rogers Road districts, HR-R (residential) and HR-CC (community commercial), are established to implement the goals and recommendations of the *Mapping Our*

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issued concurrently with the establishment of the district shall be deemed a valid ‘special use permit-A.’ (AMENDED 5/25/04; 4/28/15; 10/23/18 AMENDED)

Section 15-141.4 Conditional Zoning Districts. (AMENDED 5/27/08; REWRITTEN 6/22/21)

(a) Conditional zoning districts are zoning districts in which the development and use of the property so zoned are governed by the regulations applicable to one of the conventional use zoning districts listed in the Table of Permissible Uses, as modified by the conditions and restrictions imposed as part of the legislative decision creating the district and applying it to the particular property. Accordingly, the following conditional zoning districts may be established:

R-20-CZ, R-15-CZ, R-10-CZ, R-7.5-CZ, R-3-CZ, R-2-CZ, R-R-CZ, R-S.I.R.-CZ, and R-S.I.R.-2-CZ

B-1(C)-CZ, B-1(G)-CZ, B-2-CZ, B-3-CZ, B-3-T-CZ, B-4-CZ, CT-CZ, O-CZ, O/A-CZ, M-1-CZ, M-2-CZ, M-3-CZ (AMENDED 4/27/10; 6/23/15; 10/23/18)

There may also be established a HR-CC-CZ zoning district, pursuant to the purpose statement and criteria described in Section 15-136.1.

(b) The conditional zoning districts authorized by this section may be applied to property only in response to a petition signed by all the owners of the property to be included within such district.

(c) Subject to the provisions of subsections (k), (l), and (n), the uses permissible within a conditional zoning district authorized by this section, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the conventional use zoning district to which the conditional district corresponds, except as those uses and regulations are limited by conditions imposed pursuant to subsection (f) of this section. For example, property that is rezoned to a B-2-CZ district may be developed in the same manner as property that is zoned B-2, subject to any conditions imposed pursuant to subsection (d). (AMENDED 10/23/18)

- (1) Property that is zoned B-4-CZ may be developed for use classifications 1.231 (duplex, maximum 20% units > 3 bedrooms/dwelling unit), 1.241 (two family apartment, maximum 20% units > 3 bedrooms/dwelling unit), 1.321 (multi-family residences, maximum 20% units > bedrooms/dwelling unit and 1.331 (multi-family, maximum 20% units > 3 bedrooms/dwelling unit) 1 in addition to other uses permissible in the B-4 district, subject to a special use permit-A, and the following: (i) not more than 25% of the total land area covered in this district may be developed for such uses; and (ii) the area developed for such uses shall have a minimum of 1,500 square feet per dwelling unit (except that applicable density bonuses shall apply).

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- (2) Except as otherwise provided in this section, the uses that are permissible within a M-3-CZ district, and the regulations applicable to property within such a district shall be those uses and those regulations that would be applicable to any property zone M-1-CZ (i.e. excluding specific conditions made applicable to any property zoned M-1-CZ) with the addition of use 3.230.
- (3) Property that is zoned O/A-CZ shall be subject to all regulations applicable to the O/A district (including but not limited to the performance standards set forth in part I of Article XI), except as follows:
 - a. No area less than four contiguous acres and no more than a total of twenty-five (25) acres may be rezoned to the O/A-CZ.
 - b. Uses within the O/A-CZ district shall be limited to those where loading and unloading occurs during daylight hours only.
 - c. Buildings within the O/A-CZ district shall comply with the following standards:
 1. Exterior walls shall be constructed of materials commonly used on the exterior walls of single-family residences (such as brick, stone, wood or fabricated residential lap siding made of hardboard or vinyl).
 2. The pitch of the roof shall have a minimum vertical rise of one foot for every two feet of horizontal run.
 3. Windows shall be of a scale and proportion typically of single-family residences.

(d) When a rezoning petition for a conditional zoning district is submitted (in accordance with Article XX of this chapter), the application shall include a list of proposed conditions (which may be in the form of written statements, graphic illustrations, or any combination thereof) to be incorporated into the ordinance that rezones the property to the requested conditional zoning district. The rezoning petition for a VMU district, described in subsection 15-141.2(g)(1), shall include a master plan as a condition of the approval. **(AMENDED 10/25/16)**

(e) A rezoning petition may be submitted to allow use classification 3.260 Social Service Provider with Dining within a building of more than two stories or 35 feet in height. **(AMENDED 10/25/16)**

- (1) The petition shall include information that demonstrates that, if the project is completed as proposed, it:

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- a. Will not substantially injure the value of adjoining or abutting property; and
- b. Will be in harmony with the area in which it is to be located. The manner in which a project is designed to accommodate additional building height including, but not limited to, scale, architectural detailing, compatibility with the existing built environment and with adopted policy statements in support of vibrant and economically successful and sustainable, mixed-use, core commercial districts shall be among the issues that may be considered to make a finding that a project is or is not in harmony with the area in which it is to be located. The applicant may use a variety of graphic and descriptive means to illustrate these findings; and
- c. Will be in general conformity with the Comprehensive Plan, Land Use Plan, long range transportation plans, and other plans officially adopted by the Council. **(AMENDED 3/22/16, 10/25/16)**

- (2) All relative provisions of the Land Use Ordinance shall apply except to the extent that such provisions are superseded by the provisions of this section or any conditions incorporated into the conditional zoning district described in subsection (d) and (f). **(AMENDED 10/25/16)**

(f) The specific conditions proposed by the petitioner or the Town may be modified by the planning staff, advisory boards or Town Council as the rezoning application works its way through the process described in Article XX, but only those conditions mutually approved by the Town and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, the town may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, 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. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to the requirements of this chapter, or the impacts reasonably expected to be generated by the development or use of the site.

(g) Except as allowed under minor modifications below, all changes to conditional zoning districts are major amendments and shall follow the same process as for the original approval as described in this section and in Article XX. Changes to conditional zoning districts may also require amendments or modifications to associated special use permits, zoning permits or sign permits for the development as pursuant to Section 15-64.

- (1) Minor modifications in conditional zoning districts may be reviewed and approved administratively subject to the following limitations:

The minor modification:

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- a. Does not involve a change in uses permitted or the density overall of the development permitted;
- b. Is a limited minor change that does not have a substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development, such as, without limitation, a minor adjustment to internal road or parking configuration, a minor adjustment to building location, or a minor adjustment to internal tree screening or other landscaping, or a minor adjustment to utility location;
- c. Does not increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development approval;
- d. Meets all other applicable conditions of the rezoning; and
- e. Meets all other ordinance requirements.

- (2) For a conditional zoning district applicable to multiple parcels, the owners of individual parcels may apply for a minor modification or major amendment so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties who owners petition for the change.

(h) A decision on a minor modification may be appealed to the Board of Adjustment as an administrative determination as provided for in subsection 15-93.1. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

(i) All uses that are permissible in the conditional zoning district shall require the issuance of the same type of permit that such use in the corresponding conventional use district would ordinarily require (according to the Table of Permissible Uses), i.e. a special use permit-A, special use permit-B, or zoning permit.

(j) Notwithstanding the foregoing, all uses that are permissible in the B-4-CZ zoning district and M-3-CZ zoning district shall require the issuance of a special use permit-A. **(AMENDED 10/23/18)**

(k) Notwithstanding the foregoing, in approving a rezoning to a B-1(g) – CZ zoning district, the Town Council may authorize the property so zoned to be developed at a higher level of residential density than that otherwise permissible in B-1(g) zoning districts under Section 15-182 if the rezoning includes conditions that provide for site and building elements that will create a more vibrant and successful community. Site and building elements are intended to be selected from at least three of the following seven areas: stormwater management, water conservation,

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energy conservation, on-site energy production, alternative transportation, provision of affordable housing, and the provision of public art and/or provision of outdoor amenities for public use. Conditions that may be included to meet the above stated objective include but shall not be limited to the following: **(AMENDED 11/9/11)**

- (1) Reduction in nitrogen loading from the site by at least 8% from the existing condition, as determined by the North Carolina Stormwater Nitrogen and Phosphorus (SNAP) Tool.
- (2) Energy performance in building requirements to meet one or more of the following.
 - a. Achieve 40% better than required in the Model Energy Code, which for NC, Commercial is ASHRAE 90.1-2004-2006 IECC equivalent or better, and Residential is IECC 2006, equivalent or better).
 - b. “Designed to Earn the Energy Star” rating.
 - c. Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard measured from the regional (or country) average for that building type.
 - d. AIA goals of integrated, energy performance design, including resource conservation resulting in a minimum 50 percent or greater reduction in the consumption of fossil fuels used to construct and operate buildings.
 - e. LEED certification to achieve 50% CO2 emission reduction, or LEED silver certification
 - f. US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030.
 - g. Specific energy saving features, including but not limited to the following, are encouraged.
 - i. Use of shading devices and high performance glass for minimizing heating and cooling loads
 - ii. Insulation beyond minimum standards;
 - iii. Use of energy efficient motors/HVAC;
 - iv. Use of energy efficient lighting;
 - v. Use of energy efficient appliances
 - vi. LED or LED/Solar parking lot lighting (50-100% more efficient).
 - vii. Active and passive solar features.
- (3) Provision of onsite facilities (e.g. solar, wind, geothermal) that will provide 5% of electricity demand associated with the project.
- (4) Use of harvested rainwater for toilet flushing.
- (5) Parking lot meets the standard for a “green” parking lot, per the EPA document Green “Parking Lot Resource Guide.”

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- (6) Inclusion of Low Impact Development features.
- (7) Provision of covered bike parking sufficient to provide space for one space per every two residential units.
- (8) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips.
- (9) Inclusion of at least one (1) parking space for car sharing vehicles.
- (10) Provision of public art and/or outdoor amenities for public use.
- (11) Use of surface materials that reflect heat rather than absorb it.
- (12) Use of devices that shade at least 30% of south-facing and west-facing building facades.
- (13) Provision of affordable housing in accordance with Town policy.

(l) If a B-1(g) – CZ zoning district is created and, pursuant to subsection (k) of this section, a higher level of residential density than that otherwise permissible in B-1(g) zoning districts is approved for that district, then it shall be a requirement of such district that at least twenty percent (20%) of the total leasable or saleable floor area within all buildings located within such zoning district shall be designed for non-residential use. Occupancy permits may not be given for residential floor area if doing so would cause the ratio of residential floor area for which an occupancy permit has been issued to non-residential floor area for which an occupancy permit has been issued to exceed four to one (4:1). **(AMENDED 11/9/11)**

(m) For property that is zoned B-4-CZ, the Town Council may approve a special use permit-A that authorizes the tract to be divided into two or more lots, so long as (i) the application for the special use permit-A contains sufficient information to allow the Town Council to approve (and the Council does approve) such subdivision (including without limitation the street system, stormwater control system, open spaces, and all other common areas and facilities outside the boundaries of the subdivided lots) as well as the development of at least one of the lots within the subdivided tract, all in accordance with the applicable standards and requirements of this chapter (i.e. The subdivision and development of such lot(s) require no further review by the Council); and (ii) the application specifies (as a proposed condition on the CUP) the use or uses, maximum height, and maximum floor area of any structure(s) allowed on each lot for which the application does not provide sufficient information to allow development approval by the Council.(Amended 10/23/18)

- (1) Notwithstanding the provisions of subsection 15-64(d), with respect to lots for which the application for a special use permit-A for the entire tract does not provide sufficient information to allow development approval of such lots by the Council, the Council shall specify (by way

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of a condition upon the special use permit-A) whether development approval of such lots shall be regarded as an insignificant deviation or a minor modification, or shall require a new application. In making this determination, the Council shall consider the extent to which the initial special use permit-A imposes limitations on the use and design of each such lot beyond the minimum requirements of this section. The Council's determination as to the type of approval of such lots shall apply only to applications that are consistent with the permit previously approved by the Council. Such applications may be submitted by persons who have an interest (as described in Section 15-48) only in such lots, rather than the developer of the entire tract zoned B-4-CZ.

- (2) Except as provided in subdivision (1) above, the provisions of Section 15-64 and Subsection 15-141.4 shall apply to proposed changes to a special use permit-A issued in connection with a B-4-CZ rezoning.

(n) For property that is zoned M-3-CZ, pursuant to subsection 15-141.4(c)(2) the following provisions shall apply.

- (1) If the Town Council concludes that a proposed development of property zoned M-3- CZ will contain site and building elements that will create a more vibrant and successful community and provide essential public infrastructure, the Council may approve a special use permit-A that allows up to a specified maximum percentage of the gross floor area of the development to be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700. The specified maximum percentage of the gross floor area of the development that may be devoted to such uses shall be proportional to the extent to which the development provides site and building elements that exceed the basic requirements of this ordinance. Such site and building elements are intended to be selected from the following five areas: stormwater management and water conservation; substantial transportation improvement and alternative transportation enhancement; on-site energy production and energy conservation; creation of new and innovative light manufacturing operations; and the provision of public art and/or provision of outdoor amenities for public use.
- (2) The following relationships between site and building elements and uses are hereby deemed to satisfy the standard set forth in subdivision (1) of this subsection: (i) up to fifteen percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of uses 8.100, 8.200, 8.500, 8.600, and 8.700 if the development includes at least fifteen percent of the examples of performance measures from the five areas of site and building element categories set forth below; (ii) up to thirty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the

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development includes at least thirty percent of the examples of performance measures from the five areas of site and building element categories set forth below; and (iii) up to forty percent of the gross floor area of a development approved pursuant to this section may be devoted to any combination of the foregoing uses if the development includes at least forty percent of the examples of performance measures from the five areas of site and building element categories set forth below. In addition, the Council may allow up to forty percent of a development approved pursuant to this section to be devoted to any combination of the foregoing uses if it concludes that the development will be making a substantial enough investment in one or more of the performance measures listed below to satisfy the standard set forth in subdivision (1) of this subsection.

Performance Measures

Site and Building Element Categories	Examples of Performance Measures
Stormwater management and Water conservation	1) Substantial stormwater retrofits 2) Reduction in nitrogen loading from the site by at least 8 percent from the existing condition, as determined by the Jordan Lake Accounting Tool
Substantial transportation improvement and Alternative transportation enhancement	3) Provision of a safe, convenient, and connected internal street system or vehicle accommodation area designed to meet the needs of the expected number of motor vehicle, bicycle, pedestrian, and transit trips 4) Substantial improvement to public infrastructure, such as enhanced bicycle and pedestrian paths, or access to transit 5) Construction of substantially improved site entrance, intersection
On-site energy production and energy conservation	6) Meets or exceeds standards for LEED Gold certification 7) Installation of active and passive solar features such as sufficient solar arrays to account for 50 percent or more of the electrical usage for the property 8) Use of harvested rainwater for toilet flushing 9) Use of devices that shade at least 30 percent of south-facing and west-facing building elevations 10) Use of low emissivity (low-e ²) windows along south-facing and west-facing building elevations

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	<p>11) Installation of attic insulation that exceeds the current building code R-value rating by 35 percent or greater</p> <p>12) Use of geothermal heat system to serve the entire complex</p> <p>13) Use of LED fixtures for parking and street lights</p> <p>14) Meets the Architecture 2030 goal of a 50 percent fossil fuel and greenhouse gas emission reduction standard, measured from the regional (or country) average for that building type or the US Conference of Mayors fossil fuel reduction standard for all new buildings to carbon neutral by 2030</p>
Creation of new and innovative light manufacturing operations	<p>15) The development of clean, innovative light manufacturing operation(s) that creates employment for a more than ten workers</p> <p>16) Incorporates technologies to reduce production waste by 50 percent or more</p>
The provision of public art and/or provision of outdoor amenities for public use	<p>17) Outdoor amenities such as major public art</p> <p>18) Amphitheatre or outdoor theater, outdoor congregating/gathering area</p> <p>19) Outdoor eating facilities</p> <p>20) Outdoor tables with game surfaces, etc.</p>

- (3) In approving a special use permit-A for a development of infill property zoned M-3-CZ, the Council may allow deviations from the otherwise applicable standards relating to public streets as follows:
- a. The Council may approve a curb and gutter street having a right-of way of not less than 50 feet, travel lanes of not less than 11 feet, divided by a raised concrete median, with a two foot planting strip and a five foot sidewalk if the development provides a separate ten-foot wide paved bike path or shared-use path that constitutes a satisfactory alternative to a bike lane with the street right-of-way if the applicant can demonstrate that the proposed road will provide the functional equivalent to the required street classification standard for all modes of travel from the point of origin to the terminus at the property boundaries.
 - b. The Council may approve a street lighting system consisting of LED lights on 15 foot poles if satisfactory arrangements are made to ensure that all costs associated with the installation, operation, and maintenance of such poles and lights are borne by the developer or the developer’s successor, and not the Town.

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- c. The Council may approve a street tree planting plan that provides for the installation of fewer 6” caliper trees rather than the planting of more numerous 2” caliper trees required by Section 15-316.

Section 15-141.5 Site Specific, Flexible Zoning District. (AMENDED 6/21/16)

(a) A site specific, flexible zoning district (FLX) may be established in accordance with the provisions of this section. The purpose of such a district is to establish detailed standards for alternative possibilities for the development of a specific tract of land, thereby facilitating the development of that property according to the demands of the market, but in a way that is consistent with sound planning and the promotion of the public health, safety, and welfare.

(b) To be considered for FLX zoning, a tract must (i) be at least twenty-five acres in size, (ii) be, as a whole, owned by or under control or option to be purchased by one or more individuals or entities, (iii) be located adjacent to a major arterial such that, when developed, the principal entrance to such development will be from that arterial, (iv) have been the subject of a site specific planning study by the Town to determine the most appropriate potential development options for such tract. As used herein, the term “site specific planning study” shall mean a collaborative programmatic and design study for the site performed either by, or with the participation of the Town and input from one or more workshops, which shall result in a narrative report and conceptual master plan describing in general terms how the site might be developed and how the conceptual master plan corresponds to and addresses applicable components of all town plans for the area, and applicable conditions, and (v) be located in an area that is subject to an adopted small area plan.

- (1) If the Town receives a request for FLX zoning for a tract that has not been the subject of a site specific planning study as described in Subsection (b)(iv) above, the Planning Director shall present to the Town Council a proposal for undertaking such a study before accepting a formal application for the rezoning. If the Town Council accepts the proposal, the site specific planning study shall proceed as described in the following subsections, or as otherwise directed by the Council.
 - a. The site specific planning study shall be structured as a charrette of a minimum of one day in duration, or more as determined by the Council.
 - b. The Town shall contract a design professional, with no ties to the applicant, to conduct the charrette. The Town may also contract with a qualified facilitator to oversee the charrette process and final reports prepared from the charrette process.
 - c. Participation shall include representatives from advisory boards, neighbors, and members of the public.
 - d. Notice of the date of the charrette will be mailed to residents and property owners within 1000 feet of the subject property, published in the newspaper as well and any other means the Town deems suitable.
- (2) Findings from the site specific planning study report, or narrative, and site plan(s) shall be presented to the Town Council. Subsequent requests for

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FLX zoning shall demonstrate compliance with the findings from the site specific planning study.

- (3) If more than five years have elapsed since the findings from the site specific planning study were presented to the Council and the circumstances relating to the study have substantially changed, the Council may request an update to the study before accepting a request for FLX zoning. Examples of substantial changes in circumstances include but are not limited to: annexation, some or all of the tracts has been subject to a rezoning, unrelated to the FLX district, that increases residential density or changes the types of uses, (i.e. residential to commercial), development on surrounding properties has changed the character or capacity of existing infrastructure.

(c) A FLX zoning district shall address the following:

- (1) The types of uses that are permissible within the FLX district, along with a maximum (and if applicable, a minimum) percentage of the gross land area that will be devoted to each such use. The description of uses may be in reference to the use classification numbers set forth in the Table of Permissible Uses, or the uses may otherwise be described. The district regulations may also establish density or intensity limitations (expressed in terms of a maximum and/or, if applicable, a minimum number of dwelling units or square feet of building floor area, and applicable ratios, if any if different types of uses within the district).
- (2) The dimensional restrictions (building height, minimum lot size, setbacks) that shall apply throughout the district. Different restrictions may apply to different portions of the district, depending on the uses located therein. The dimensional restrictions may be described by reference to those applicable within particular zoning districts, or otherwise.
- (3) Any limitations on the areas within the district where particular types of uses may be allowed.
- (4) Any architectural standards that will apply to all or designated portions of the district.
- (5) Any limitations on the timing or sequence of development of various portions of the district.
- (6) The location of entrances to and exits from the tract zoned FLX.
- (7) The manner in which the development of the property will comply with the stormwater requirements set forth in Article XVI, Part II. All developed lots within the district shall be subject to these standards, regardless of the amount of land disturbance, but the FLX district may allow the necessary

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stormwater treatment facilities to be constructed to meet these standards on a lot by lot basis, or some other basis that provides effective and efficient treatment for all new construction.

- (8) Any limitations on the location or design of parking lots and facilities.
- (9) Specifications and standards for the internal circulation system serving vehicular and pedestrian traffic, including a statement as to whether such facilities will be dedicated to the Town.
- (10) All infrastructure improvements proposed to be constructed in conjunction with the development of the property zoned FLX (including but not limited to improvements to adjoining streets) together with a schedule that links construction of such improvements to the development of the property.
- (10A) A traffic impact analysis of the FLX zone, including a phase plan or schedule of improvements along with a description of thresholds to require improvements.
- (11) The extent to which, and the manner in which, development within the tract zoned FLX will be required to meet the goals of Low Impact Design and or exceed the standards for LEED gold certification.

(d) Development of any lot within a FLX zoning district shall require a zoning permit (and a sign permit if applicable), but not a special use permit.

(e) All relevant provisions of the Land Use Ordinance shall apply except to the extent that such provisions are superseded by the provisions of this section or any FLX district established pursuant to this section. In the case of conflict, the provisions of this ordinance or of the specific FLX district ordinance for the tract shall apply.

(f) A text amendment establishing a FLX district as well as a map amendment applying such district to a particular tract shall be initiated and processed in accordance with the following provisions:

- (1) The owner of property who wishes to have such property zoned FLX shall submit a written request to the Town Council, identifying the subject property and explaining why the property is a good candidate for FLX zoning. This written request shall include or attach (i) relevant documents (i.e. narrative, and site plan(s) and a list of proposed conditions which may be in the form of written statements, graphic illustrations, or any combination thereof) that describe the results of the site specific planning process referred to in subsection (b)(iv) above, and (ii) an explanation as to why and how the proposed district is consistent with the Northern Study Area Plan, or if the property is not located within the Northern Study Area, such other plans or policies as may be applicable. The Council may, in its

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discretion, summarily deny the request or direct the town attorney and planning staff to work with the property owner to develop an ordinance pursuant to this section that establishes an appropriate FLX district and that applies this district to such property.

- (2) Once an ordinance has been drafted as provided in subdivision (f)(1), such ordinance shall be processed in accordance with the provisions of Article XX of this chapter applicable to ordinance amendments initiated by the town administration, except that (i) a preliminary draft of the ordinance, including a concept plan shall be presented to the planning board, Transportation Advisory Board, Environmental Advisory Board, Appearance Commission, Economic Sustainability Commission, and Northern Transition Area Advisory Committee (and other advisory boards to which the Town Council may refer the draft) prior to the ordinance being referred to the Town Council to establish a date for the legally required public hearing on the ordinance; (ii) at the time the Town Council directs that an ordinance be drafted in accordance with subsection (f)(1) above, the Council may establish such additional processes as deemed necessary to ensure that the public has an adequate opportunity for input into the proposed FLX district, and (iii) no property shall be rezoned FLX without the consent of the property owner (which consent may be withdrawn at any time before the adoption of the ordinance establishing the FLX district). The text and the map amendment may be processed simultaneously.
- (3) Amendments to a FLX district shall be initiated and processed in the same manner as the initial ordinance, except that, if the planning staff determines that a proposed amendment has no substantial impact on neighboring properties, the general public, or those intended to occupy the site zoned FLX, the staff may forward the requested amendment to the Council as provided in subsection 15-321(c)(2). In such case, the Council may (i) decline to call for a public hearing on the proposed amendment, thereby rejecting it; (ii) establish a date for a public hearing on the proposed amendment in accordance with the procedures applicable to any other zoning amendment; or (iii) direct that additional processes be followed to obtain additional public input on the proposal before setting a date for the legally required public hearing.

(g) Property within a FLX district may be subdivided according to the provisions of this chapter applicable to minor subdivisions, even if such subdivision involves the creation of more than a total of four lots or the creation of a new public street.

PART II. ZONING MAP

Section 15-142 Official Zoning Map.

(a) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the town's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the planning department.

(b) The Official Zoning Map dated April 1973 is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Section 15-143.

(c) Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further authorization or action is required so long as no district boundaries are changed in this process.

Section 15-143 Amendments to Official Zoning Map. (AMENDED 4/27/10; 10/26/10; 9/24/13)

(a) Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments to this chapter, as set forth in Article XX.

(b) The administrator shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Town Council. Upon entering any such amendments to the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the Official Zoning Map.

(d) The planning department shall keep copies of superseded prints of the zoning map for historical reference.

Section 15-143.4 Downtown Neighborhood Protection Overlay District. (AMENDED 8/23/05)

(a) There is hereby created a Downtown Neighborhood Protection (DNP) Overlay District. The purpose of this district is to establish special height, setback, and design requirements applicable to lots in certain commercially zoned downtown areas where such lots abut or are directly across the street from residentially zoned properties.

(b) Because the DNP district is an overlay district, properties within this district are subject to the regulations applicable to the underlying district except as those regulations are modified or superseded by the requirements of the DNP district. The requirements of the DNP district are set forth in Section 15-185.1 of this chapter.

Section 15-143.5 Lloyd/Broad Overlay District. (AMENDED 6/26/2018)

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(a) There is hereby created a Lloyd/Broad Overlay District. The purpose of this district is to protect and preserve the character of the district and to establish special height, setback, mass and parking requirements applicable to lots within the district.

(b) Because the Lloyd/Broad Overlay District is an overlay district, properties within this district are subject to the regulations applicable to the underlying zoning district, except as those regulations are modified or superseded by the requirements of this district which are set forth in Section 15-185.2 of this Chapter.

Section 15-144 through 15-145 Reserved.

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AMENDMENTS

Section 15-320 Amendments in General.

(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 9/01/87; 6/22/21)**

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

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

(d) The regulations applicable to the watershed districts do, and all amendments to these regulations shall, comply with the water supply watershed protection rules promulgated by the State pursuant to G.S. section 143-214.5. Copies of all amendments to section 15-266 shall be sent to the Department of Environmental Quality (DEQ), Division of Water Resources and the Environmental Management Commission (EMC). **(AMENDED 10/15/96; 6/22/21)**

Section 15-321 Initiation of Amendments.

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

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

- (1) The name, address, and phone number of the applicant. 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. **(AMENDED 6/22/21)**

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- (2) A description of the land affected by the amendment if a change in zoning district classification is proposed.
- (3) Stamped envelopes containing the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 15-323.
- (4) A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter.
- (5) A concise statement of the reasons why the petitioner believes the proposed amendment would be in the public interest.

(b1) If a change in zoning district classification is proposed, the petitioner shall hold at least one neighborhood information meeting on the application. A mailing is required in accordance with the standards in 15-323(c). **(AMENDED 6/22/21)**

(c) Upon receipt of a petition as provided in (b), the planning staff shall either:

- (1) Treat the proposed amendment as one initiated by the town administration and proceed in accordance with subsection (a) if it believes that the proposed amendment has significant merit and would benefit the general public interest; or
- (2) Forward the petition to the Council with or without written comment for a determination of whether an ordinance should be drafted and a public hearing set in accordance with subsection (d).

(d) Upon receipt of a proposed ordinance as provided in subsection (a), the 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-601(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.) **(AMENDED 6/22/21)**

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

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involves an economic development issue or any other board if the amendment involves an issue of which the board has expertise.(**AMENDED 9/19/95; REWRITTEN 2/25/14; AMENDED 6/25/19; 6/22/21**).

(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; 6/22/21**)

(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; 6/22/21**)

(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; 6/22/21**)

Section 15-323 Hearing Required: Notice.

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

(b) The planning staff shall publish a notice of the public hearing on any ordinance that amends the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the Carrboro area. The notice shall be published for the first time not less than ten days nor more than twenty-five days before the date fixed for the hearing. This period is to be computed in accordance with G.S. section 160D-601(a), which provides that the date of publication is not counted but the date of the hearing is. (**AMENDED 6/22/21**)

(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

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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. If the rezoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing. The staff member mailing such notices shall certify to the council 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; 4/15/97; 3/26/02; 6/22/21)**

(d) The first class mail notice required under subsection (c) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in subsection (c) of this section or may, as an alternative, elect to publish notice of the hearing as required by G.S. section 160D-602(b), but provided that each advertisement shall not be less than one-half (1/2) of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Orange County property tax listing for the affected property, shall be notified according to the provisions of subsection (c) of this section. **(AMENDED 10/24/06; 6/22/21)**

(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. **(AMENDED 6/22/21)**

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

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

- (1) State the date, time, and place of the public hearing.
- (2) Summarize the nature and character of the proposed change.
- (3) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment.

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- (4) State that the full text of the amendment can be obtained from the town clerk.
- (5) State that substantial changes in the proposed amendment may be made following the public hearing.

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

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

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

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 or text amendment, the Council shall adopt a statement describing whether the action is consistent or inconsistent with an adopted comprehensive plan, which shall not be subject to judicial review. **(AMENDED 2/6/2018;**

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REWRITTEN 6/22/21)

- (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 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). **(REWRITTEN 6/22/21)**

Section 15-325 Ultimate Issue Before Council on Amendments.

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

- (1) Except when the request is to rezone property to a conditional zoning district, the Council shall not consider any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Council shall consider whether the entire range of permitted uses in the requested classification is more

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appropriate than the range of uses in the existing classification. **(AMENDED 05/25/99; 05/27/08)**

- (2) The Council shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

Section 15-326 Citizen Comments on Zoning Map and Text Amendments. (AMENDED 10/24/06, REWRITTEN 12/6/16; 6/22/21).

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 that has been properly initiated as provided in G.S. 160D-601, 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 G.S. 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).

PLANNING BOARD

ITEM NO. _____

AGENDA ITEM ABSTRACT**MEETING DATE: May 2, 2024****TITLE: Land Use Ordinance Text Amendment Related to Water Quality Buffers, Road Buffers, Setback Exceptions, and Fences**

DEPARTMENT: Planning	PUBLIC HEARING: YES ___ NO_X_
ATTACHMENTS: A. Recommendation Template B. Draft LUO Ordinance C. Annotated Draft LUO Ordinance D. Map of Protective Road Buffers E. Staff Memo	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327 Christina Moon – 918-7325 Duncan Dodson – 918-7340

PURPOSE

The purpose of this agenda item is to consider text amendments to the Land Use Ordinance that would ensure clear alignment with state enabling legislation and provide clarifications to improve usability of the ordinance. The Town Council has set a public hearing for June 7, 2024, and has requested advisory board review prior to the hearing.

INFORMATION

The changes incorporated into this text amendment serve two main purposes: to ensure clear alignment of language in the Land Use Ordinance with state enabling legislation (the Jordan Lake Rules and Chapter 160D), and to clarify certain provisions of the ordinance to improve its use by residents, boards, and staff. The recently adopted comprehensive plan, *Carrboro Connects*, directs the Town across several strategies to examine and update the LUO. In parallel to a larger rewrite of the ordinance, this amendment (Attachment B) advances goals laid out in the plan to improve the permit review process, and ensure the ordinance continues to align with existing state statutes.

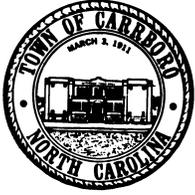
Staff identified these timely and appropriate changes from questions that came from applicants, advisory boards and commissions, and administrators of the Land Use Ordinance. To improve clarity, administration, and alignment of the Ordinance, staff selected four places where changes can be made: water quality buffers, road buffers, setback exceptions, and fences.

In addition, it should be noted that the draft ordinance, if approved, will not lessen Carrboro's water quality buffer provisions, change the use of road buffers, change the application process for setback exceptions, or change where fences are installed.

A public hearing has been set for June 4th. The Town Council must receive public comments before adopting amendments to the Land Use Ordinance. Orange County and Planning Board review is also needed. The Council has also referred the item to the Appearance Commission, the Transportation Advisory Board, the Environmental Advisory Board, the Economic Sustainability Commission, and the Affordable Housing Advisory Commission.

RECOMMENDATION

Staff recommends that advisory boards and commissions review the draft ordinance (*Attachment B*) and consider adopting a recommendation for inclusion in the public hearing materials for June 4th. A recommendation template has been provided for the boards to use (*Attachment A*).



TOWN OF CARRBORO

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

THURSDAY, MAY 2, 2024

Land Use Ordinance Text Amendment Relating to Water Quality Buffers, Road Buffers, Fences, and Setback Exceptions

Motion was made by _____ and seconded by _____ that the _____ recommends that the Town Council _____ the draft ordinance.

VOTE:

AYES: ()

NOES: ()

ABSTENTIONS: ()

ABSENT/EXCUSED: ()

Associated Findings

By a unanimous show of hands, the _____ membership indicated that no members have any financial interests, nor any close familial, business or other associational relationship to the landowner of the property subject to a rezoning petition that would pose a conflict of interest.

Motion was made by _____ and seconded by _____ that the _____ of the Town of Carrboro finds the proposed text amendment _____ consistent with the Town of Carrboro 2022-2042 Comprehensive Plan, Climate Action & Environment, Transportation & Mobility, Green Stormwater Infrastructure, Water, & Energy, and Land Use strategies noted below:

- Climate Action & Environment Strategy 1.2a: Review and revise the provisions in the Land Use Ordinance related to stormwater and development to provide better protection to streams and riparian areas and to align in accordance with state enabling legislation.
- Transportation & Mobility Strategy 2.2 Continue to create safe streets and trail networks for pedestrians, bike riders, and transit riders due to the clarifications allowing sight triangles and bike and pedestrian facilities in protective road buffers.
- Green Stormwater Infrastructure, Water, & Energy: Water Strategy 2.1: Continue to implement watershed management and restoration projects ensuring alignment with state watershed protections.
- Land Use Strategy 3.1: Pursue development provisions that preserve and maintain natural areas by incorporating environmentally sensitive development and building practices.
- Land Use Strategy 5.2: Improve the development approval process to be more predictable and efficient while continuing to offer vibrant community participation.

Furthermore, the _____ of the Town of Carrboro finds the proposed text amendment, is reasonable and in the public interest because of the specific criteria required: public hearings for Land Use Ordinance changes that ensure alignment to state watershed regulations and enabling legislation, and that clarify existing provisions.

VOTE:

AYES: ()

ABSENT/EXCUSED: ()

NOES: ()

ABSTENTIONS: ()

(Chair)

(Date)

**AN ORDINANCE AMENDING THE TOWN OF CARRBORO LAND USE
ORDINANCE TO UPDATE AND CLARIFY WATER QUALITY BUFFER,
ROAD BUFFER, SETBACK VARIANCES, AND FENCE REQUIREMENTS**

****DRAFT 4-28-2024* ***

THE TOWN COUNCIL OF THE TOWN OF CARRBORO HEREBY ORDAINS:

Section 1. Section 15-92 (Variances), subsection (k) is amended to read as follows:

(k) With respect to a variance from any of the provisions of Part III (Water Quality Buffers) of Article XVI, the following procedure shall apply in addition to the standards set forth in Section 15-92(b):

(1) The Board may grant minor variances, which are activities that pertain to Zone Two as defined in 15a NCAC O2b.0267, as amended, and shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

(a) If the applicant complies with the provisions of this part, they can secure no reasonable return from, nor make reasonable use of, their property.

(a1) Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of this part that shall make reasonable use of the property possible;

(b) The hardship results from application of this part to the property rather than from other factors such as deed restrictions or other hardship;

(c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this part would not allow reasonable use of the property;

(d) The applicant did not cause the hardship by knowingly or unknowingly violating this part;

(e) The applicant did not purchase the property after August 11, 2009, the effective date of this part, and then request a variance; and

(f) The hardship is rare or unique to the applicant's property.

(2) For any variance request, the local government shall make a finding of fact as to whether the variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and preserves its spirit; and

(3) For any variance request, the Board shall make a finding of fact as to whether,

in granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(4) MINOR VARIANCES. A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in subsection (k)(1) through (k)(3) of this part by the Board pursuant to G.S. 160D-102(38). The Board may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program.

(5) Request for appeals to decisions made by the Board shall be made on certiorari to the local Superior Court.

(6) MAJOR VARIANCES. A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If the local government has determined that a major variance request meets the requirements in subsection (k)(1) through (k)(3) of this part, then it shall prepare a preliminary finding and submit it to the Board for approval. Within 90 days after receipt by the local government, the Board shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Board decision on a major variance request are made on judicial review to Superior Court.

Section 2: Section 15-269.5 (d) (Table of Exempt and Allowable Activities in Water Quality Buffers) is amended to read as follows:

Use	Exempt *	Allowable *	Allowable with Mitigation*
Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities: <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 Ordinance or impervious surface is added to the riparian buffer 	X	X	
Airport facilities: <ul style="list-style-type: none"> • Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer • Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)¹ 		X	X
Archaeological activities	X		
Bridges		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Attachment B - 4 of 15

Use	Exempt *	Allowable *	Allowable with Mitigation*
Driveway crossings of streams and other surface waters subject to this Section: <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
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	
Fertilizer application: One-time application to establish vegetation	X		
Forest harvesting – See Section 15-319.1			
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	
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	
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	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Attachment B - 5 of 15

Use	Exempt *	Allowable *	Allowable with Mitigation*
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
Playground equipment: <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	
Ponds created by impounding streams and not used as stormwater BMPs: <ul style="list-style-type: none"> • 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 ponds 		X	X
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	
Railroad crossings of streams and other surface waters subject to this Ordinance: <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
Railroad impacts other than crossings of streams and other surface waters subject to this Part.			X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Attachment B - 6 of 15

Use	Exempt *	Allowable *	Allowable with Mitigation*
Recreational and accessory structures in Zone 2: <ul style="list-style-type: none"> • Sheds and gazebos in Zone 2, provided they are not prohibited under local water supply ordinance: <ul style="list-style-type: none"> ○ Total footprint less than or equal to 150 square feet per lot. ○ Total footprint greater than 150 square feet per lot. • Wooden slatted decks and associated steps, provided the use meets the requirements of Section 15-269.3 and 15-269.4: <ul style="list-style-type: none"> ○ Deck at least eight feet in height and no vegetation removed from Zone 1. ○ Deck less than eight feet in height or vegetation removed from Zone 1. 		X	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	
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety: <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
Scientific studies and stream gauging	X		
Shoreline stabilization, including armoring of stream banks with rip rap or retaining walls			X
Stormwater BMPs: <ul style="list-style-type: none"> • Wet detention, bioretention, and constructed wetlands in Zone 2 if diffuse flow of discharge is provided into Zone 1 • Constructed wetlands in Zone 1, if not closer than 30' to surface waters and diffuse flow is provided into the remainder of Zone 1. • Wet detention, bioretention, and constructed wetlands 30' or less from surface waters 		X	X
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 or bridge construction or replacement. 	X	X	X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Attachment B - 7 of 15

Use	Exempt *	Allowable *	Allowable with Mitigation*
<p>Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and comparable vegetation is replanted immediately after construction is complete. Tree planting may occur during the dormant season; the restored buffer shall comply with Section 15-269.7(g) within five years:</p> <ul style="list-style-type: none"> • In Zone 2, provided that the vegetation in Zone 1 is not compromised, that discharge is released as diffuse flow in accordance with Section 15-269.5, and that ground cover is established within time frames required by the Sedimentation and Erosion Control Act • In Zones 1 and 2 to control impacts associated with uses approved by the Town or that have received a variance provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer. • In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act. • In-stream temporary erosion and sediment control measures for work within a stream channel. 	X	X	
<p>Transportation (vehicular, bike) crossings of streams and other surface waters subject to this Section:</p> <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 <p>Transportation crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</p>	X	X	X
<p>Transportation impacts other than crossings of streams and other surface waters subject to this Section</p>			X
<p>Utility, electric, aerial, perpendicular crossings^{2,3,4}:</p> <ul style="list-style-type: none"> • Disturb equal to or less than 100 linear feet of buffer • Disturb greater than 100 linear feet of buffer 	X	X	
<p>Utility, electric, aerial, other than perpendicular crossings³:</p> <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^{2,4,5} 	X	X	X
<p>Utility, electric, underground, perpendicular crossings^{3,4,6}:</p> <ul style="list-style-type: none"> • Disturb less than or equal to 40 linear feet of buffer • Disturb greater than 40 linear feet of buffer 	X	X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Attachment B - 8 of 15

Use	Exempt *	Allowable *	Allowable with Mitigation*
Utility, electric, underground, 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 waters⁵ 	X	X	X
Utility, non-electric, 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	X X
Utility, non-electric, 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
Vegetation management: <ul style="list-style-type: none"> • Emergency fire control measures provided that topography is restored • Mowing or 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 Exotic Plant Guidelines. 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		
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	
Water dependent structures where installation and use result in disturbance to riparian buffers.		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Use	Exempt *	Allowable *	Allowable with Mitigation*
Water supply reservoirs: <ul style="list-style-type: none"> • New reservoirs where a riparian buffer that meets the requirements of Section 15-269.3 is established adjacent to the reservoir • New reservoirs where a riparian buffer that meets the requirements of Section 15-269.3 is not established adjacent to the reservoir 		X	X
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	
Wildlife passage structures		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

¹ To the extent practicable the 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.

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

- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of Section 15-269.3.

⁶ Provided that:

- 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.
- 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.
 - 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 where trees are cut.
 - 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.
 - 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.
 - Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
 - In wetlands, mats shall be utilized to minimize soil disturbance.

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.

Section 3. Subdivision (b)(1)(b) of Section 15-198 (Open Space) is amended to read as follows:

- b. Is not devoted to use as a roadway, parking area, or sidewalk, unless a publicly accessible sidewalk or related shared-use facility is located within a protective roadway buffer as defined by Section 15-312.

Section 4. Subdivision (b)(4)(g) of Section 15-198 (Open Space) is amended to read as follows:

- g. Road buffers as required by Section 15-312 of the Chapter, except for those portions of the buffers that must be included in road or utility crossings, sight triangles and pedestrian and bicycle improvements.

Section 5. Section 15-312 (Protective Buffer Along Major Roads). Is amended to read as follows:

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 and encroachments as described in Section 15-198(b)(4)(g)) 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 6. Section 15-92.1 (Special Exception Permits) is amended by replacing the term "special exception permit" in all instances with the term "setback exception."

Section 7. Section 15-92.1(c)(2) is amended to read as follows:

- (2) Issuance of the permit will not adversely affect the value of adjoining or neighboring properties.

Section 8. Section 15-184(3)(b) is amended with the addition of a definition of "substantially opaque" so that the subdivision now reads as follows:

- (b). Fences, walls or berms running along right-of-way or lot boundaries adjacent to public street rights of way if such fences, walls or berms exceed three feet in height and are substantially opaque except that fences, walls or berms shall not be regarded as "buildings" within the meaning of this subdivision if they are located along the rear lot line of lots that have street frontage along both the front and rear of such lots. For the purpose of this section, any portion of a fence higher than three feet located horizontally along or perpendicular to a right-of-way that does not meet the applicable setback requirement must be at least 50 percent open/revealed to 50 percent closed/opaque. A zoning permit for use 35.00 (Fences) is only required when fences are located in the right-of-way setback.

Section 9. Section 15-147 (Use of the Designations A,B,Z in Table of Permissible Uses) is amended by the addition of a new subsection (w) that reads as follows:

- (w) Notwithstanding the foregoing, a zoning permit is only required for use 35.00 (Fences) as defined in Subdivision 15-184(3)(b), when fences are located in the right-of-way setback.

Section 10. Section 15-146 (Table of Permissible Uses) is amended by the addition of a new use classification, 35.00 (Fence), with a “Z” entered in each column indicating that a zoning permit is required for the installation of a fence in each zoning district.

Section 11. All provisions of any Town Ordinance in conflict with this Ordinance are repealed.

Section 12. This Ordinance shall become effective upon adoption.

DRAFT

ARTICLE XVI
FLOOD DAMAGE PREVENTION, STORMWATER MANAGEMENT, AND
WATERSHED PROTECTION

PART III. WATER QUALITY BUFFERS

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.

(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.
- (1) 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.

(d) Table of Exempt and Allowable Activities in Water Quality Buffers (AMENDED 3/4/14)

Activity	Exempt *	Allowable*	Allowable with Mitigation*
<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 Ordinance or impervious surface is added to the riparian buffer 	X	X	
<p>Airport facilities:</p> <ul style="list-style-type: none"> • Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer • Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)⁵ 		X	X
Archaeological activities	X		
Bridges		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		
<p>Dam maintenance activities:</p> <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	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Activity	Exempt *	Allowable*	Allowable with Mitigation*
Driveway crossings of streams and other surface waters subject to this Section: <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
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	
Fertilizer application: One-time application to establish vegetation	X		
Forest harvesting – See Section 15-319.1			
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	
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	
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).			
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	

Activity	Exempt *	Allowable*	Allowable with Mitigation*
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
Playground equipment: <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	
Ponds created by impounding streams and not used as stormwater BMPs: <ul style="list-style-type: none"> • 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 ponds 		X	X
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	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Railroad crossings of streams and other surface waters subject to this Ordinance: <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
Railroad impacts other than crossings of streams and other surface waters subject to this Part.			X

Activity	Exempt *	Allowable*	Allowable with Mitigation*
<p>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:</p> <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 or bridge construction or replacement. 	X	X X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

<p>Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and comparable vegetation is replanted immediately after construction is complete. Tree planting may occur during the dormant season; the restored buffer shall comply with Section 15-269.7(g) within five years:</p> <ul style="list-style-type: none"> • In Zone 2, provided that the vegetation in Zone 1 is not compromised, that discharge is released as diffuse flow in accordance with Section 15-269.5, and that ground cover is established within time frames required by the Sedimentation and Erosion Control Act • In Zones 1 and 2 to control impacts associated with uses approved by the Town or that have received a variance provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer. • In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act. • In-stream temporary erosion and sediment control measures for work within a stream channel. 	X X	X X	
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Activity	Exempt *	Allowable*	Allowable with Mitigation*
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
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).			
Utility, electric, aerial, perpendicular crossings ^{2,3,4} : <ul style="list-style-type: none"> • Disturb equal to or less than 100 linear feet of buffer • Disturb greater than 100 linear feet of buffer 	X	X	
Utility, electric, aerial, other than perpendicular crossings ³ : <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^{2,4,5} 	X	X	X
Utility, electric, underground, perpendicular crossings ^{3,4,6} : <ul style="list-style-type: none"> • Disturb less than or equal to 40 linear feet of buffer • Disturb greater than 40 linear feet of buffer 	X	X	
Utility, electric, underground, 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 waters⁵ 	X	X	X

Activity	Exempt *	Allowable*	Allowable with Mitigation*
Utility, non-electric, 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	X X
Utility, non-electric, 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

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).

Vegetation management: <ul style="list-style-type: none"> • Emergency fire control measures provided that topography is restored • Mowing or 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, Cheri L., 1998 Exotic Plant Guidelines. 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		
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Activity	Exempt*	Allowable*	Allowable with Mitigation*
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	
Water dependent structures where installation and use result in disturbance to riparian buffers.		X	
Water supply reservoirs: <ul style="list-style-type: none"> • New reservoirs where a riparian buffer that meets the requirements of Section 15-269.3 is established adjacent to the reservoir • New reservoirs where a riparian buffer that meets the requirements of Section 15-269.3 is not established adjacent to the reservoir 		X	X
Water wells <ul style="list-style-type: none"> • Single family residential water wells • All other water wells 	X	X	
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).			
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	
Wildlife passage structures		X	
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in Section 15-269.4 (Diffuse Flow Requirement).			

¹ To the extent practicable the 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.

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.

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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
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of Section 15-269.3.

⁶ Provided that:

- 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.
- 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.
 - 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 where trees are cut.
 - 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.
 - 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.
 - Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
 - In wetlands, mats shall be utilized to minimize soil disturbance.

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.

Activity	Exempt	Allowable	Allowable with Mitigation
Drainage, Stormwater, Erosion Control, and other Water-based activities			

Activity	Exempt	Allowable	Allowable with Mitigation
<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

Activity	Exempt	Allowable	Allowable with Mitigation
<ul style="list-style-type: none"> • Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of this section is established adjacent to the new channel. [Ponds that are not in a natural drainage way are not subject to the buffer requirements of this part.] AMENDED 2/21/12) 	X		
Scientific studies and stream gauging	X		
<p>Stormwater BMPs:</p> <ul style="list-style-type: none"> • Constructed wetlands in Zone 1, if not closer than 30' to surface waters and diffuse flow is provided into the remainder of Zone 1. • Wet detention, bioretention, and constructed wetlands in Zone 2 if diffuse flow of discharge is provided into Zone 1 		X	
-See Wetland, stream and buffer restoration			
Shoreline stabilization, including armoring of stream banks with rip rap or retaining walls			X
<p>Temporary sediment and erosion control devices provided that the disturbed area is restored to preconstruction topographic and hydrologic conditions and comparable vegetation is replanted immediately after construction is complete. Tree planting may occur during the dormant season; the restored buffer shall comply with Section 15-269.7(g) within five years:</p> <ul style="list-style-type: none"> • In Zone 2, provided that the vegetation in Zone 1 is not compromised, that discharge is released as diffuse flow in accordance with Section 15-269.5, and that ground cover is established within time frames required by the Sedimentation and Erosion Control Act In Zones 1 and 2 to control impacts associated with uses approved by the Town or that have received a variance provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer. • In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act. • In-stream temporary erosion and sediment control measures for work within a stream channel. 	X	X	

Activity	Exempt	Allowable	Allowable with Mitigation
Water dependent structures where installation and use result in disturbance to riparian buffers.		X	
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	

Activity	Exempt	Allowable	Allowable with Mitigation
<p>Mining activities:</p> <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
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	
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		

Activity	Exempt	Allowable	Allowable with Mitigation
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	
Playground equipment: <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	
Driveway crossings of streams and other surface waters subject to this Section: <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
Railroad crossings of streams and other surface water drainage features subject to this Part: <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

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

Activity	Exempt	Allowable	Allowable with Mitigation
<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
<p>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:</p> <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	
<p>Transportation (vehicular, bike) crossings of streams and other surface waters subject to this Section:</p> <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
<p>Transportation impacts other than crossings of streams and other surface waters subject to this Section</p>			X
<p>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.</p>		X	
Utilities			

Activity	Exempt	Allowable	Allowable with Mitigation
Electric utility, aerial, perpendicular crossings ^{2,3,4} : <ul style="list-style-type: none"> • 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 : <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^{2,4,5} 	X	X	X
Electric utility, underground, perpendicular crossings ^{3,4,6} : <ul style="list-style-type: none"> • 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.

Activity	Exempt	Allowable	Allowable with Mitigation
Electric utility, underground, 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 waters⁵ 	X	X	X
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	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		

• 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.

Activity	Exempt	Allowable	Allowable with Mitigation
<p>Vegetation management:</p> <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, Cheri 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. 	<p style="text-align: center;">X</p>		

ARTICLE V
APPEALS, VARIANCES, SPECIAL ~~SETBACK~~ EXCEPTIONS, INTERPRETATIONS,
AND DETERMINATIONS (AMENDED 6/22/21)

Section 15-92 Variances. (AMENDED 11/10/81; 4/21/87; 12/05/89; 4/23/96; 10/24/06; 6/26/12; 10/21/14; REPEALED & AMENDED 3/24/09; REWRITTEN 10/26/10)

...

(k) ~~If the board votes to grant a major~~ **With respect to a variance from any of the provisions of Part III (Water Quality Buffers) of Article XVI, the following procedure shall apply in addition to the standards set forth in Section 15-92(b):**

- (1) The Board may grant minor variances, which are activities that pertain to Zone Two as defined in 15a NCAC O2b.0267, as amended, and shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:
 - (a) If the applicant complies with the provisions of this part, they can secure no reasonable return from, nor make reasonable use of, their property.
 - i. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of this part that shall make reasonable use of the property possible;
 - (b) The hardship results from application of this part to the property rather than from other factors such as deed restrictions or other hardship;
 - (c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this part would not allow reasonable use of the property;
 - (d) The applicant did not cause the hardship by knowingly or unknowingly violating this part;
 - (e) The applicant did not purchase the property after August 11, 2009, the effective date of this part, and then request a variance; and
 - (f) The hardship is rare or unique to the applicant's property.
- (2) For any variance request, the local government shall make a finding of fact

as to whether the variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and preserves its spirit; and

- (3) For any variance request, the Board shall make a finding of fact as to whether, in granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.
- (4) **MINOR VARIANCES.** A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in subsection (k)(1) through (k)(3) of this part by the Board pursuant to G.S. 160D-102(38). The Board may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program.
- (5) Request for appeals to decisions made by the Board shall be made on certiorari to the local Superior Court.
- (6) **MAJOR VARIANCES.** A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If the local government has determined that a major variance request meets the requirements in subsection (k)(1) through (k)(3) of this part, then it shall prepare a preliminary finding and submit it to the Board for approval. Within 90 days after receipt by the local government, the Board shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Board decision on a major variance request are made on judicial review to Superior Court.

~~the administrator shall forthwith prepare and send to the Environmental Management Commission a record of the proceedings before the board. The variance shall not be issued until it is approved by the EMC. For purposes of this subsection, a major variance is one that pertains to prohibited activities that will impact that portion of Zone One of the riparian buffers that lies within 30 feet of the surface waters subject to buffer requirements of the Jordan Reservoir.~~

Section 15-92.1 Special **Setback Exception Permits. (AMENDED 6/21/94; 6/4/24)**

[PLEASE REFERENCE "APPENDIX H"]

(a) An application for a **special setback** exception permit shall be submitted to the board of adjustment by filing a copy of the application with the administrator in the planning department.

(b) All of the provisions of this article applicable to the processing of variance applications shall also apply to **special setback** exception permit requests, except the provisions of Subsections 15-92(b) and 15-96(b) and (c).

(c) The board of adjustment may issue a ~~special setback~~ exception permit for the purposes and under the circumstances set forth in the remaining subsections of this section if it concludes, in addition to any other findings required below, that:

- (1) Issuance of the permit will not create a threat to the public health or safety; and
- (2) Issuance of the permit will not adversely affect the value of adjoining or neighboring properties. ~~If the applicant presents a petition, signed by the owners of all properties entitled to receive notice of the hearing on the application pursuant to Section 15-102(2), and stating that such property owners believe their property values will not be adversely affected by the proposed use, this shall be sufficient evidence from which the board may (but shall not be required to) make the required finding. The board may also make the required finding based on other competent evidence.~~

(d) The board of adjustment may issue a ~~special setback~~ exception permit under this section to allow a reduction of up to 50% in the required distances that buildings must be set back from lot boundary lines under Subsection 15-184(a)(4)

...

(e) The board of adjustment may issue a ~~special setback~~ exception permit to authorize a structure to encroach upon a setback required under Section 15-184 if it finds that

...

**Section 15-96 Board Action on Appeals, Variances, and ~~Special Setback~~ Exceptions.
(AMENDED 4/27/82; 6/21/94; 10/21/14)**

(d) Before granting a ~~special setback~~ exception permit, the board shall vote affirmatively on each of the findings required under section 15-92.1. A motion to deny a ~~special setback~~ exception may be made on the basis that any one or more of the findings required by section 15-92.1 are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it.

ARTICLE XIII

RECREATIONAL FACILITIES AND OPEN SPACE

Section 15-198 Open Space. (AMENDED 4/24/84; 3/26/85; 12/10/85; 11/11/86; REWRITTEN 6/27/95; 6/20/06; AMENDED 3/24/09; 3/23/10)

(a) The Council 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, **unless a publicly accessible sidewalk or related shared-use facility is located within a protective roadway buffer as defined by Section 15-312.**
 - 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.
- (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 5/25/99)**
- (4) The term “primary conservation areas” shall mean: **(AMENDED 5/25/99; 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, **sight triangles, and pedestrian and bicycle improvements.**

ARTICLE XIX SCREENING AND TREES

PART I. SCREENING

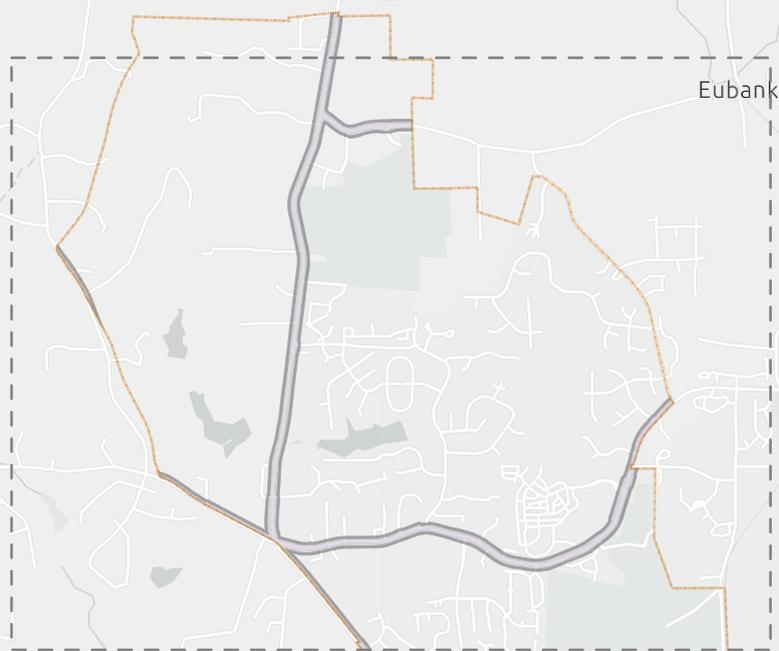
Section 15-312 Protective Buffer Along Major Roads. (AMENDED 5/25/99; 10/23/07)

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 and encroachments as described in Section 15-198(b)(4)(g)) 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)

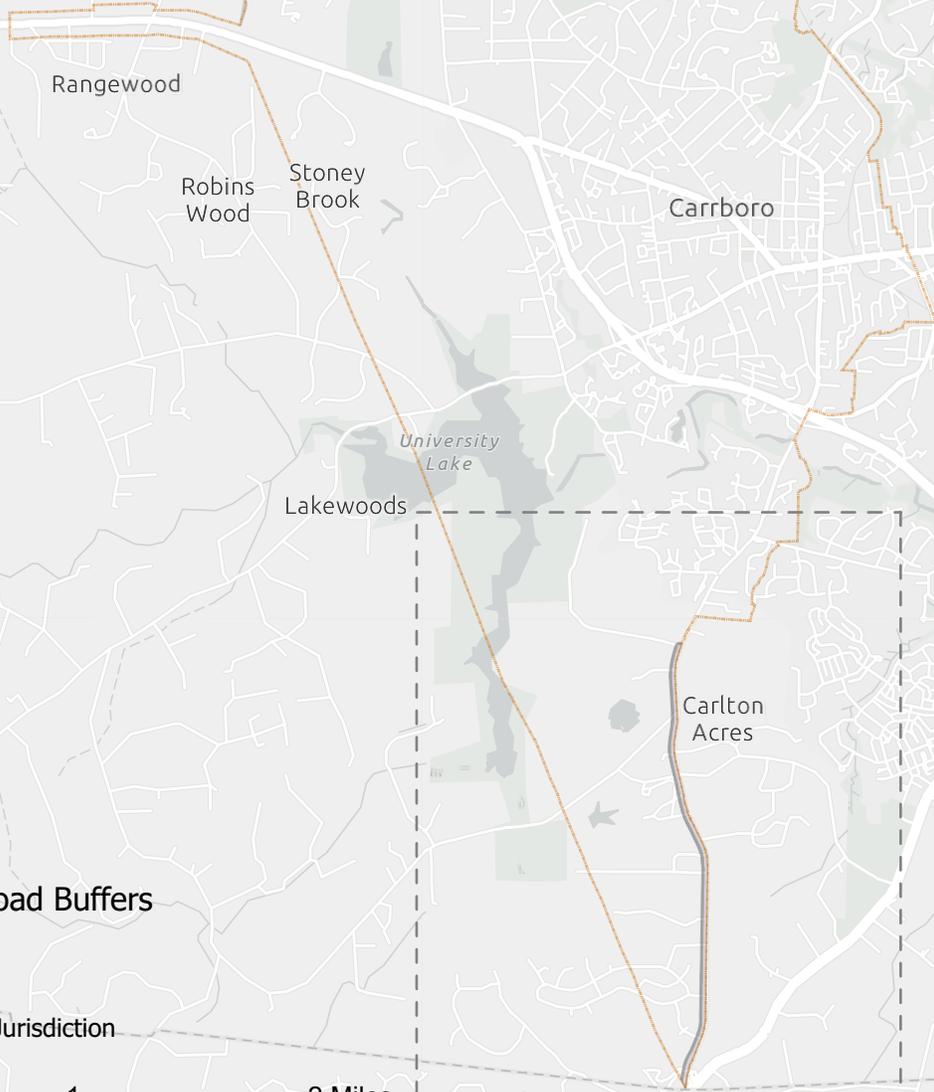
ARTICLE XII DENSITY AND DIMENSIONAL REGULATIONS

Section 15-184 Building Setback Requirements

- (a) Subject to Section 15-187 (Architecturally Integrated Subdivisions) and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth below: **(AMENDED 1/22/85)**
- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.
 - (2) As used in this section, the term “lot boundary line” refers to lot boundaries other than those that abut streets.
 - (3) As used in this section, the term “building” includes any substantial structure, which, by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - a. Gas pumps and overhead canopies or roofs.
 - b. Fences, walls or berms running along **right-of-way or** lot boundaries adjacent to public street rights of way if such fences, walls or berms exceed three feet in height and are substantially opaque except that fences, walls or berms shall not be regarded as “buildings” within the meaning of this subdivision if they are located along the rear lot line of lots that have street frontage along both the front and rear of such lots. **For the purpose of this section, any portion of a fence higher than three feet located horizontally along or perpendicular to a right-of-way that does not meet the applicable setback requirement must be at least 50 percent open/revealed to 50 percent closed/opaque. A zoning permit for use 35.00 (Fences) is only required when fences are located in the right-of-way setback (AMENDED 5/19/98)**



Page 2

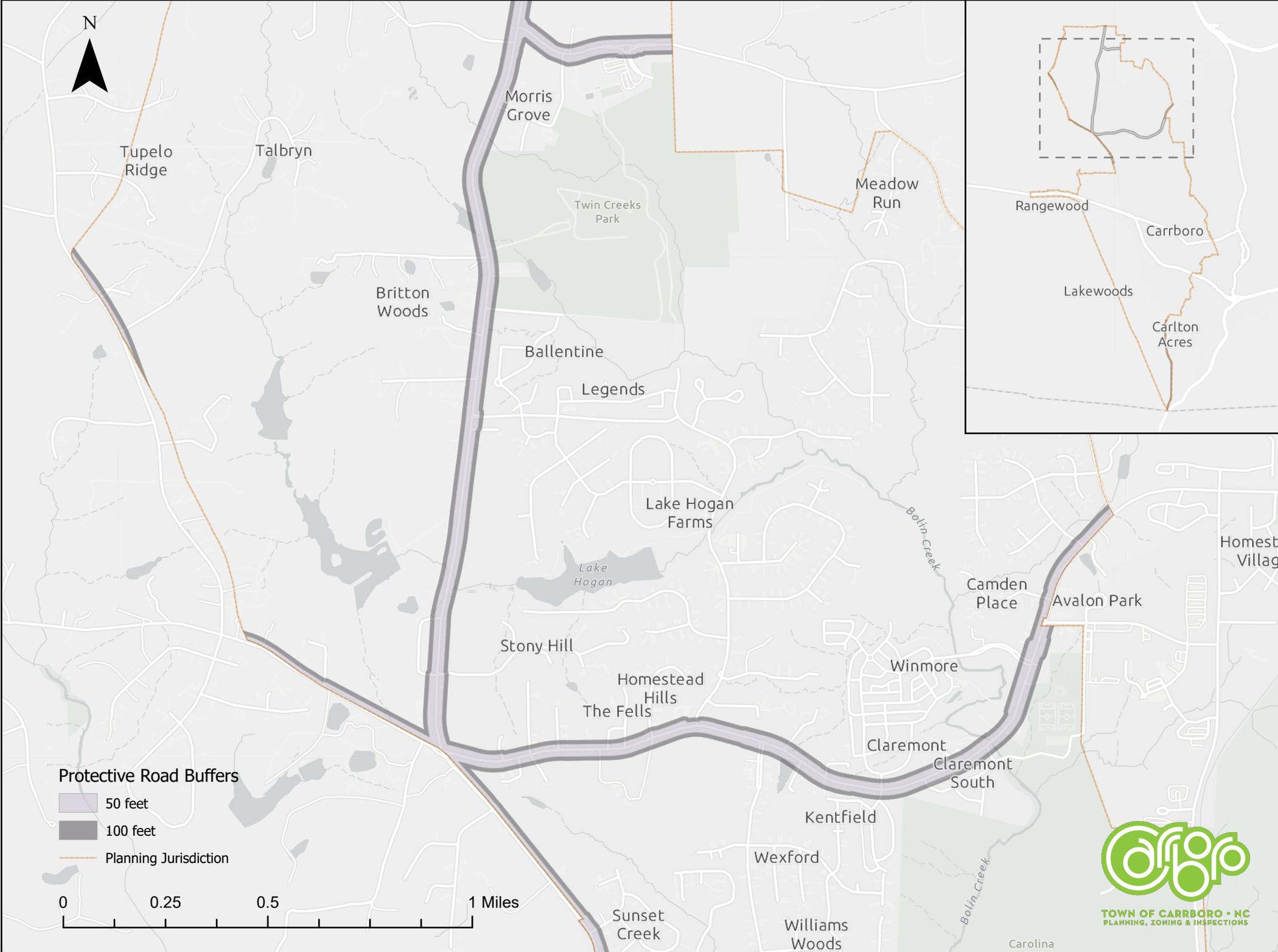


Page 3

Protective Road Buffers

-  50 feet
-  100 feet
-  Planning Jurisdiction



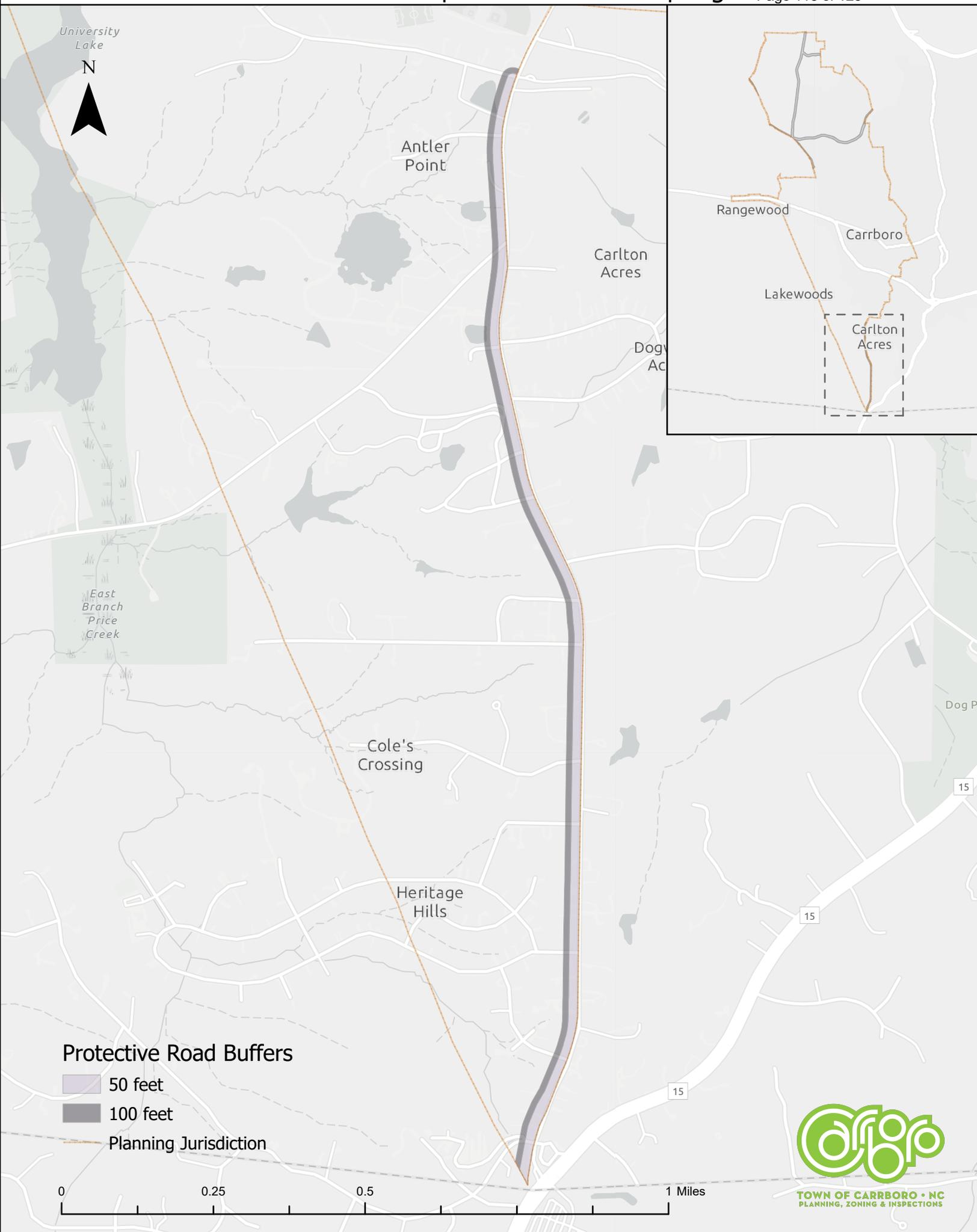


Protective Road Buffers

-  50 feet
-  100 feet

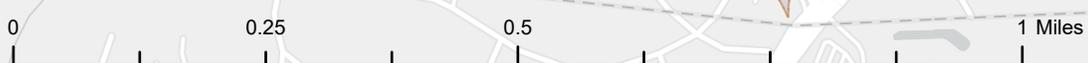
 Planning Jurisdiction





Protective Road Buffers

-  50 feet
-  100 feet
-  Planning Jurisdiction





TOWN OF CARRBORO

NORTH CAROLINA

TRANSMITTAL

PLANNING DEPARTMENT

DELIVERED VIA: HAND MAIL FAX EMAIL

To: Advisory Boards

From: Duncan Dodson, Planner

Date: April 28, 2024

Subject: Proposed Land Use Ordinance Text Amendment Relating to Water Quality Buffers, Road Buffers, Fences, and Setback Exceptions.

Overview

The changes incorporated into this text amendment serve two main purposes: to ensure clear alignment of language in the Land Use Ordinance with state enabling legislation, and to clarify sections of the ordinance to improve its use by residents, boards, and staff. The recently adopted comprehensive plan, *Carrboro Connects*, directs the Town across several strategies to examine and update the LUO. In parallel to a larger rewrite of the LUO, this amendment advances goals laid out in the plan to improve the permit review process, and ensure the LUO continues to align with existing state statutes including the Jordan Lake Rules and Chapter 160D. The changes are summarized in the table below:

Topic	Proposed Changes	Impacts
Road Buffers	15-198(b)(1)(b) 15-198(b)(4)(g) 15-312	Clarifies permissible uses and practices in NCDOT rights-of-way that enhance safety and provide opportunities for bike and pedestrian connections
Fences	15-146 15-147 15-184(3)(b)	Clarifies the 50% opaque requirements for fences along the front- and side-yards of properties. Adds the requirement for a zoning permit to construct a fence.
Setback Exceptions	15-92.1	Clarifies the function of this permit by replacing the term “special exception” with “setback exception.”
Water Quality Buffers	15-92(k) 15-269.5(d)	Adds three (3) new uses to the Table of Exempt and Allowable Activities in Water Quality Buffers to align with current Jordan Lake Rules. Clarifies associated findings required for quasi-judicial approval of variances within water quality buffers.

Discussion

Road Buffers

The following NCDOT maintained roads designated for required protective road buffers are as follows (map provided as *Attachment C*):

- Old NC 86
- Dairyland Road
- Union Grove Church Road
- Homestead Road
- Eubanks Road
- Smith Level Road, south of Ray Road

Section 15-198 concerns the provision of open space when land is developed for residential purposes to serve the health, safety, and welfare of the public. Open space includes further designation of primary and secondary conservation areas. Protective road buffers along specific NCDOT-maintained roads are included the definition of primary conservation areas, except for “portions that must be included in road or utility crossings.”

The Town has used this exception to enhance safety via sight triangles at entry and exit points of homes and neighborhoods along these roads. Sight triangles are small patches clear of obstructions that allow for residents leaving a neighborhood to see signage, and passing walkers, cyclists, and vehicles. The Town has also used this exception to create publicly accessible sidewalks, sidepaths, crosswalks, and other pedestrian and bike facilities along and across these roads.

To clarify the long-standing administration of this section and ensure clear alignment with NCDOT practices, this change adds “sight triangles and bicycle pedestrian improvements,” to the list of portions of the buffers that are not considered primary conservation areas. Sight triangles and bike and pedestrian facilities that meet the requirements of Section 15-198 in a dedicated easement will count towards a development’s open space calculation, just not as primary conservation areas. The changes in 15-312 reinforce this language.

Fences

The changes to Section 15-146 and 15-147 add a new use class—35.00 Fence—which is allowed in all zoning districts. Section 15-147 further specifies that a zoning permit is required when a fence is located in a right-of-way setback.

Currently fences constructed or located in a right-of-way setback require a zoning permit; this change makes that requirement clear. As the Town increases density, property owners will have more opportunities to use as much of their lot as possible (i.e. by adding accessory structures and dwelling units); adding clarity to the existing review process will ensure the Town can preemptively address noncompliance rather

than relying on enforcement which requires more staff time. The Town has mitigated several violations and issued variances. Staff know that the current process depends often on property owners approaching the Town, and this is the staff's strategy to address some of these issues.

The Ordinance currently specifies that fences, walls, and berms taller than 3 feet must be substantially opaque if they are:

- located along front lot boundaries adjacent to street rights of way,
- or perpendicular to and located within a certain distance (often 25 feet) of a street right-of-way.

To provide consistent application of the standard, the Zoning Division issued an interpretive memo on September 15, 2021, defining substantially opaque as at least 50 percent open/revealed to 50 percent closed/opaque. The change to section 15-184(3)(b) serves to add an existing interpretive memo's definition of "substantially opaque" into the body of the LUO for clarity to applicants, boards, and staff.

Setback Exceptions

To more clearly indicate the extent of this permit, and to ensure clear alignment with Chapter 160D of the state General Statutes, this change will replace all instances of the term "special exception" with "setback exception." It will not change application for or receipt of the permit through quasi-judicial review by the Board of Adjustment nor modify property owner's right to seek a variance if they are ineligible for the setback exception.

In 2021, the NC General Assembly consolidated existing county and city land use law into Chapter 160D. One change that occurred was the removal of the term "special exception." At the time, the Town reviewed the LUO and decided changing the language of special exception permits was not necessary. Upon further review staff have identified a name change would be clearer, since this permit applies primarily to new buildings and additions to existing buildings that encroach into a setback.

Currently, the Ordinance uses the term "special exception" for a permit that allows an applicant to build or encroach into a lot boundary setback up to 50% or to extend along an existing encroachment that may exceed 50%, provided it meets the building code. Most commonly this is sought by applicants to place a shed at the back of their property or build an addition to a home into the setback. Of note, in districts where the setback is 10', and 50% encroachment would allow buildings to be constructed 5' into the setback, NC Building Code safety requirements of at least 6' between structures still apply.

Water Quality Buffers

The update to the table of exempt and allowable uses in the water quality buffers accomplishes three things:

- Adds 3 uses and related allowances outlined in the state's Jordan Lake Rules (15A NCAC 02B .0267) to the current table (highlighted in *Attachment C*):

- Airport Facilities—staff anticipate this use in Carrboro is unlikely but are including it to make cross-referencing the LUO and the Jordan Lake Rules.
- Recreational and Accessory Structures (sheds, gazebos, and wooden slatted decks),
- and Water Supply Reservoirs
- Updates the use of stormwater best management practices (BMPs) in Zone 1 (within the 30-foot buffer) from “allowable” to “allowable with mitigation” as set forth in the Jordan Lake Rules
- Reorganizes the LUO table alphabetically to match the Jordan Lake Rules to simplify cross-referencing and to help applicants, boards, and staff understand where Carrboro’s regulations are stricter.

Where Carrboro’s regulations are more stringent, there is no change in allowances and exemptions, as the Town can exceed the minimum requirements of the Rule (15A NCAC 02B .0267). Despite the LUO not currently reflecting these uses, the Town is still required to administer the current listed uses outlined in the Rule.

Details and associated exemptions and allowances for existing and new uses can be seen in the table in the draft ordinance (*Attachment B*) and in the annotated version of the current Land Use Ordinance (*Attachment C*).

Public Input

The public hearing schedule allows a handful of opportunities for staff to seek public input. In line with recommendations from the Text Amendment Racial Equity Assessment Lens (REAL), staff have also identified a schedule of outreach events to provide residents information relating to the proposed changes and to seek public input.

DATE	EVENT
May 5	Carrboro Day
May 11	Bike Month Event at the Farmers’ Market
May 18	Carrboro in Motion
May 23	Planning Open House
May 28	Planning Open House

Action Requested

Advisory boards and commissions are asked to review the draft ordinance (*Attachment B*) and consider adopting a recommendation for inclusion in the public hearing materials for June 4th. A recommendation template has been provided for the boards and commissions to use (*Attachment A*).

Attachments

- A – Recommendation Template
- B – Draft Ordinance
- C – Annotated Draft LUO Ordinance
- D – Map of Protective Road Buffers