



# TOWN OF CARRBORO

## PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

7:30 P.M.

TOWN HALL BOARD ROOM

### A G E N D A

THURSDAY, JANUARY 16, 2020

Item	Topic/Action	Person/Agency	Time (Approx)
I.	WELCOME/AGENDA ADJUSTMENTS	Chair	7:30
II.	APPROVAL OF MINUTES		
	November 21, 2019	Chair/Planning Board	7:35
III.	OTHER MATTERS		
	A) Adoption of 2020	Chair/Planning Board	7:40
	B) Planning Board Training & Discussion	Staff	7:50
	C) Reminder of Officer Elections	Staff	8:50
IV.	ADJOURNMENT	Chair	9:00

#### PUBLIC COMMENT AT PLANNING BOARD MEETINGS

If members of the public wish to address the Planning Board, a time will be provided during the meeting. Speakers may address the Board only after being recognized by the Chair and only from the podium, subject to a three-minute time limit.

***TOWN HALL IS ACCESSIBLE FOR PERSONS WITH DISABILITIES.***

*FOR MORE INFORMATION, CONTACT STAFF AT 919-918-7325.*



## TOWN OF CARRBORO

## PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

THURSDAY, NOVEMBER 21, 2019 JOINT REVIEW

GUESTS	STAFF
Rachel Gaylord-Miles	Tina Moon
Braxton Foushee	Marsha Pate
Susan Poulton	
Rasam Tooloee	
Andrew Whittemore	

Board Liaison: Barbara Foushee

Absent/Excused: Catherine Fray, David Clinton, Jaye Meyer, Christopher Rogers

### I. WELCOME/AGENDA ADJUSTMENTS

Vice Chair, Rachel Gaylord-Miles opened the meeting at 7:32 welcoming two, prospective Planning Board members Kirsten Lelowdis and Meredith Morevati.

No adjustments to the agenda.

### II. APPROVAL OF MINUTES

Poulton moved to approve the November 7, 2019 Planning Board minutes; Whittemore seconded the motion. The vote was unanimous: **AYES** (5) Gaylord-Miles, Foushee, Poulton, Tooloee, and Whittemore. **NOES** (0), **ABSENT/EXCUSED** (4) Fray, Clinton, Meyer, and Rogers.

### III. OTHER MATTERS

#### Club Nova CUP Major Modification, 103 West Main Street

Tina Moon, planning staff, reviewed details included in the Planning Board's packets. Club Nova is seeking a major modification to its CUP to replace the existing two buildings—the clubhouse and thrift store with a single three-story building to house both functions. Staff reviewed with board members the elements of the proposal, including the applicants request for deviations to the requirements for sidewalks, shading, and parking. Moon referred the Planning Board to the relevant sections of the agenda packet including the staff report, site plan, building plans and building elevations as well as the staff recommendations portion of the staff report. Staff also noted the applicant's request for a deviation to the shading requirement would require a text amendment to the LUO.

Gaylord-Miles led the Planning Board through the discussion, focusing on the trees, shading requirements and parking, and the building elevations, particularly the façade.

1 After a further review of the staff recommendations and support for a future landscaping text  
2 amendment could be applied to this project. A letter of recommendation to the Aldermen  
3 was drafted, expressing a preference for a reduction in the shading requirements to allow for  
4 more parking and a simpler building façade.  
5

6 Whittemore moved to approve the recommendations to the Board of Aldermen for the Club  
7 Nova CUP Major Modification, 103 West Main Street; Poulton seconded the motion. The  
8 vote was unanimous: **AYES** (5) Gaylord-Miles, Foushee, Poulton, Tooloee, and Whittemore.  
9 **NOES** (0), **ABSENT/EXCUSED** (4) Fray, Clinton, Meyer, and Rogers  
10

11 **REMINDERS:** Poulton confirmed that December 12<sup>th</sup>, the Planning Board will have a social  
12 gathering at 7PM for an end-of-year celebration. Moon asked the group about availability for  
13 upcoming meetings (December 5<sup>th</sup>, January 3<sup>rd</sup>) as an initial check for quorums.  
14

#### 15 **IV. ADJOURNMENT**

16 Poulton motioned to adjourn the meeting; Tooloee seconded the motion. The November 21,  
17 2019 Planning Board meeting adjourned at 8:30 PM.  
18  
19

# \*\*Draft Planning Board\*\*

## 2020 Calendar

January						
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### USA Holidays and Observances

New Year's Day	Jan 01	M L King Day	Jan 21	Valentine's Day	Feb 14
Presidents' Day	Feb 17	Passover	Apr 9	Good Friday	Apr 10
Easter	Apr 12	Ramadan	Apr 24	Mother's Day	May 10
Memorial Day	May 25	Father's Day	June 21	Independence's Day	July 4
Labor Day	Sept 7	Rosh Hashanah	Sept 18-20	Yom Kippur	Sept 27-28
Columbus Day	Oct 12	Halloween	Oct 31	Veteran's Day	Nov 11
Thanksgiving	Nov 26	Hanukkah	Dec 10-18	Christmas	Dec 25
Kwanzaa	Dec 26-Jan 1	New Year's Eve	Dec 31		

## **EXCERPTS FROM CARRBORO LAND USE ORDINANCE FOR TRAINING**

### **Modified Table of Contents**

**Excerpts from Article III. Administrative Mechanisms**

**Article IV. Permits and Final Plat Approval**

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# LAND USE ORDINANCE

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Article V.	<b>APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND INTERPRETATIONS</b>
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<b>APPENDIX E.</b>	Screening and Trees – Guide for Landscaping
<b>APPENDIX F.</b>	Noise Measurement Data Sheet
<b>APPENDIX G.</b>	Method Used in Calculating Point Values for Active Recreation Facilities
<b>APPENDIX H.</b>	Example of Section 15-92.1, Special Exception
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## **Appendix A**

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- A-3 Development Site Plans
- A-4 Graphic Materials Required for Plans
- A-5 Existing Natural, Man-Made, and Legal Features
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### **SPECIFICATIONS ON DRIVEWAY ENTRANCES**

## **Appendix C**

### **SPECIFICATIONS FOR STREET DESIGN AND CONSTRUCTION**

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- C-2 Cut and Fill Slopes
- C-3 Sign Distances at Intersections
- C-4 Radius at Street Intersections
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- No. 19 T-Turnaround
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Minor Street With Curb & Gutter
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- E-4 Typical Parking Lot Planting Islands
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- E-6 Typical Opaque Screens
- E-7 Typical Semi-Opaque Screens
- E-8 Typical Broken Screens
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- E-10 Lists of Recommended Trees and Shrubs
- E-11 Small Trees for Partial Screening
- E-12 Large Trees for Evergreen Screening
- E-13 Large Trees for Shading
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- E-17 List of Invasive Plant Species

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### **STORM DRAINAGE DESIGN MANUAL**

**Appendix J**

**NOISE LEVELS [dB(A)] FOR COMMON INDOOR/OUTDOOR SOUNDS**

**Appendix K**

**DESIGN AND MANAGEMENT HANDBOOK FOR PRESERVATION AREAS  
IN LOWER MERION TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA**

**Appendix L**

**VILLAGE MIXED USE & AFFORDABLE HOUSING VERNACULAR  
STANDARDS**

## ARTICLE III

### ADMINISTRATION MECHANISMS

#### PART I. PLANNING BOARD

##### Section 15-21 Appointment and Terms of Planning Board Members

(a) There shall be a planning board consisting of eleven members. Nine members appointed by the Board of Aldermen, shall reside within the town. One member, appointed by the Orange County Board of Commissioners, shall reside within the town's extraterritorial planning area. One member, appointed by the Orange County Board of Commissioners, shall reside within the town's joint planning transition area. If the Orange County Board fails to make these appointments within ninety days after receiving a resolution from the Board of Aldermen requesting that they be made, the Board of Aldermen may make them. **(AMENDED 5/26/81; 5/27/86; 11/14/88; 09/13/94; 4/25/06)**

(b) Planning board members shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed. Vacancies shall be filled for the unexpired terms only. **(AMENDED 05/27/86; 11/14/88; 4/25/06)**

(c) The term of one of the new in-town members shall expire January 31, 2009 (this seat replaces the vacant seat of an ETJ member whose term would have expired on that date) and the term of the other new in-town member shall expire January 31, 2007 (this seat replaces the vacant seat of a transition area member whose term would have expired on that date). **(AMENDED 4/25/06)**

(d) All members may participate in and vote on all issues before the board, regardless of whether the issue affects property within the town or within the extraterritorial planning area.

(e) Members may be removed as follows: **(AMENDED 05/27/86)**

- (1) The chairman shall file or cause to be filed with the town clerk an attendance report after each meeting identifying those members who were present or absent.
- (2) Unless the chairman waives the requirement, members shall be removed if they are absent for three consecutive meetings or if they miss more than thirty percent of the meetings during a twelve month period. The town clerk shall notify the chairman in writing as soon as a member becomes subject to removal under this section. The chairman will have ten days after receipt of such notice to waive the removal. If the chairman fails to notify the town clerk in writing within ten days after receipt of such notice that the automatic removal requirement should be waived, the town clerk will send a removal notice to the member. This removal shall be effective on the date of such notice.

- (3) Members may also be removed by the appointing authority, after a hearing, for any good cause related to performance of duty.

**Section 15-22 Meetings of the Planning Board.**

(a) The planning board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 15-66 (Applications to be Processed Expeditiously).

(b) Since the board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all board procedures and the vote of every member on each issue shall be recorded.

(d) All board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

(e) Whenever the board is called upon to make recommendations concerning a conditional use permit request, special use permit request, or a minor zoning amendment proposal, the planning staff shall post on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location, and content to provide reasonably adequate notice to potentially interested persons of the matter that will appear on the board's agenda at a specified date and time. Such notice(s) shall be posted at least seven days prior to the meeting at which the matter is to be considered.

**Section 15-23 Quorum and Voting.**

(a) A quorum for the planning board shall consist of six members if there are no vacant seats, five members if there are one or two vacant seats, and four members if there are more than two vacant seats. A quorum is necessary for the board to take official action.

(b) All actions of the planning board shall be taken by majority vote, a quorum being present.

(c) A roll call vote shall be taken upon the request of any member.

**Section 15-24 Planning Board Officers.**

(a) The planning board shall designate one of its members to serve as chair, one member to serve as first vice-chair and one member to serve as second vice-chair. These officers shall be selected annually at the board's first regular meeting in February and shall serve for terms of one year unless their terms of appointment to the board sooner expire. A member may be selected to serve as chair for not more than two consecutive full one-year terms. Vacancies shall be filled for the unexpired terms only. (AMENDED 01/10/84; 01/27/09)

(b) The chair, first vice-chair and second vice-chair may take part in all deliberations and vote on all issues." (AMENDED 01/27/09)

**Section 15-25 Powers and Duties of the Planning Board.**

(a) The planning board may:

- (1) Make studies and recommend to the Board of Aldermen plans, goals and objectives relating to the growth, development and redevelopment of the town and the surrounding extraterritorial planning area.
- (2) Develop and recommend to the Board of Aldermen policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.
- (3) Make recommendations to the Board of Aldermen concerning proposed conditional use permits and proposed land use ordinance and zoning map changes as provided by Section 15-57 and 15-322.
- (4) Perform any other duties assigned by the Board of Aldermen.

(b) The planning board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter.

**Section 15-26 Advisory Committees. (AMENDED 10/24/06)**

(a) From time to time, the Board of Aldermen may appoint one or more individuals to assist the planning board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, without limitation, the Board of Aldermen may appoint advisory committees to consider the thoroughfare plan, bikeway plans, housing plans, economic development plans, etc.

(b) Members of such advisory committees shall sit as nonvoting members of the planning board when such issues are being considered and shall lend their talents, energies, and

expertise to the planning board. However, all formal recommendations to the Board of Aldermen shall be made by the planning board.

(c) Nothing in this section shall prevent the Board of Aldermen from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the Board of Aldermen.

(d) If an advisory committee provides direct advice to the Board of Aldermen (i.e. it does not report to the planning board), a member of that board shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

**Section 15-27 Northern Transition Area Advisory Committee (AMENDED 05/25/99)**

(a) There shall be a Northern Transition Area Advisory Committee consisting of five members, three appointed by the Orange County Board of Commissioners and two by the Board of Aldermen. If the Board of Commissioners fails to make these appointments within ninety days after receiving a resolution from the Board of Aldermen requesting that they be made, the Board of Aldermen may make them. All members shall be residents of the Northern Transition Area. For the purposes of this section, the Northern Transition Area shall include those unannexed portions of the Northern Study Area. The Northern Study Area is defined as follows:

The boundaries of this area are Carrboro's joint planning jurisdiction line to the north and Carrboro's Town limits to the south. The Carrboro/Chapel Hill joint planning jurisdiction line serves as the boundary to the east. It begins north of Eubanks Road, follows Rogers Road to Homestead, then proceeds southwest on Homestead road to High School Road and finally turns south and east to the railroad right-of-way. A primary ridge line serves as the northwest boundary line just east of Union Grove Church Road down to Dairyland Road, where the road serves as the boundary heading southeast until it intersects, and Old NC 86 serves as the boundary then turning southeast and running along Hillsborough Road to Greensboro Street.

(b) Members of the committee shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed. Initially the terms of all membership seats on the committee shall expire on January 31, 2000. Thereafter, one county appointee and one town appointee shall be appointed for three-year terms, one county appointee and one town appointee shall be appointed for two-year terms, and one county appointee shall be appointed for a term of one year. All members shall thereafter be appointed for terms of three years but shall be limited to no more than two consecutive three-year terms.

(c) The same provisions that govern the removal of planning board members (Subsection 15-21(e)) shall apply to committee members.

## ARTICLE IV

### PERMITS AND FINAL PLAT APPROVAL

#### PART I. PERMIT REQUIREMENTS

##### **Section 15-46 Permits Required.**

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

- (1) A zoning permit issued by the administrator;
- (2) A special use permit issued by the board of adjustment;
- (3) A conditional use permit issued by the Board of Aldermen.

(b) Zoning permits, special use permits, conditional use permits, and sign permits are issued under this chapter in respect to plans submitted by the applicant that demonstrate compliance with the ordinance provisions contained herein. Such plans as are finally approved are incorporated into any permit issued in reliance thereon, and except as otherwise provided in Section 15-64, all development shall occur strictly in accordance with such approved plans. **(AMENDED 1/10/81)**

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

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

(e) Notwithstanding the provisions of subsection (a) of this section, no permit under this chapter shall be required for the substantial alteration of a building or structure located within a

B-1(c), B-1(g) or B-2 zoning district if such alteration does not change the exterior of such building or structure in any substantial way. **(AMENDED 10/22/91)**

**Section 15-47 No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled.**

Issuance of a conditional use, special use, or zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or, (subject to obtaining a building permit), to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Sections 15-53, 15-60, and 15-61, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a zoning permit, conditional use, or special use permit have been complied with.

**Section 15-48 Who May Submit Permit Applications.**

(a) Applications for zoning, special use, conditional use, or sign permits or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendors).

(b) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (a) whenever there appears to be a reasonable basis for questioning this authority.

**Section 15-48.1 Concept Plan Review Procedures Prior to Submitting Applications (Amended 10/24/06).**

(a) Prior to submitting an application for a special or conditional use permit or for conditional zoning to allow use classification 3.260 Social Service Provider/Community Kitchen, the applicant shall comply with the requirements of this section. **(AMENDED 03/22/16)**

(b) The applicant shall attend a regularly scheduled Development Review meeting and discuss the proposed project with staff in attendance at such meeting. This requirement shall not apply to a developer of a proposed major subdivision who has met with the planning staff under the provisions of Subsection 15-50(d) following an “on-site walkabout”.

(c) Following compliance with the provisions of subsection (b), the applicant shall attend a Joint Advisory Board meeting comprising at least the following boards: Planning Board, Appearance Commission, Transportation Advisory Board, Environmental Advisory Board, and

Economic Sustainability Commission. The planning staff may notify the Recreation and Parks Commission, Northern Transition Area Advisory Committee and Affordable Housing Advisory Commission when issues relevant to those boards are raised by a proposed development and members of those boards may attend. (AMENDED 06/25/19)

- (1) No quorum requirements shall apply to the Joint Advisory Board.
- (2) The applicant shall present to the Joint Advisory Board sufficient information about the proposed development to enable the board to have a general understanding of the nature and extent of the development. If the development is a major subdivision, then a “conceptual preliminary plan” prepared in accordance with the provisions of Section 15-50 shall suffice. If the development is not a major subdivision, then the information submitted shall include at least the following:
  - a. A sketch site plan showing the location and size (including floor area) of proposed buildings, (including the extent to which buildings taller than 40 feet may cast a shadow), parking areas, and driveway entrances; (**AMENDED 03/25/14**)
  - b. Proposed residential densities and types of residential units (in terms of number of bedrooms);
  - c. Illustrations of building elevations.
  - d. Other information deemed necessary by the staff to demonstrate to the Joint Advisory Board the concept of the proposed development.

(d) Following the presentation of the concept plan to the Joint Advisory Board, the members of that board may present such feedback to the developer as they deem appropriate. In addition, following the Joint Advisory Board meeting, the component advisory boards may meet separately and make recommendations to the developer.

(e) When the development application comes back before the advisory boards for a recommendation prior to the public hearing on such application, the applicant shall provide a written response to all advisory board comments, and each advisory board that has reviewed the concept plan and made comments on it shall review those comments and may ask the developer to explain how those comments have been addressed or why they have not been addressed.

#### **Section 15-49 Applications To Be Complete.**

(a) All applications for zoning, special use, conditional use, or sign permits must be complete before the permit-issuing authority is required to consider the application.

(b) Subject to subsections (c) and (c1), an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this chapter. **(AMENDED 11/23/10)**.

(c) In this chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more of the appendices of this chapter. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as (subject to subsection (c1)) the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in this text of this chapter. However, whenever this chapter requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, or whenever it reasonably appears to the administrator that such construction drawings are necessary to demonstrate that construction details will comply with plans submitted and approved as part of the permit-issuing process, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the administrator. A detailed description of the construction plan submittal and review requirements is provided in Article IV, Part III. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII. **(AMENDED 06/06/89; 11/23/10)**

(c1) If the administrator determines that a proposed development that has been issued a zoning permit, special use permit, or conditional use permit would likely have a significant impact on adjoining or nearby streets, sidewalks, or properties during the construction process, the administrator shall notify the permit recipient that a construction management plan must be submitted and approved by the administrator. Examples of significant impacts include but are not limited to the construction of more than 1000 square feet of new building area in the downtown commercial zoning districts or ground disturbance of more than 20,000 square feet in the downtown commercial zoning districts. A construction management plan shall likewise be submitted and approved by the administrator if required by a condition attached to a conditional or special use permit. **(AMENDED 02/25/14)**

- (1) The administrator shall inform the permit recipient of the contents of the Town Code regarding (i) construction noise and hours of operation (Section 5-12(4)), and (ii) obstructing or excavating within public street rights of way (Sections 7-1, 7-4, and 7-12). The administrator shall also inform the developer that the construction management plan shall commit the developer to compliance with those provisions and shall explain how the developer intends to address other potential impacts identified by the administrator, such as streets to be used or avoided by construction vehicles, the location of entrances to the site for construction vehicles, parking for employees, contractors and subcontractors, and the location

on the site for the staging of construction materials and equipment, and concerns about potentially harmful pollutants including but not limited to dust, debris and aerosols.

- (2) If a development triggers a construction management plan, a meeting will be held by the developer with surrounding residents and businesses to elicit their input into the development of the construction management plan and to ensure its implementation. Town staff shall be present at the meeting and shall record the minutes to make certain that public input is conveyed to the applicant and incorporated into the construction management plan.
- (3) No construction may be commenced until the construction management plan has been approved. The administrator shall approve the plan if the plan proposes measures to mitigate the potential negative impacts of the project during the construction process to the extent reasonably practical under all the circumstances.
- (4) The provisions of an approved construction management plan shall be enforceable in the same manner as other provisions of this chapter. **(AMENDED 02/25/14)**

(c2) Permit applications for commercial projects (meaning those where at least twenty percent of the proposed floor area is devoted to non-residential uses) in the commercial zoning districts need not contain all of the detailed information necessary for the permit issuing authority to determine that the development, if constructed in accordance with the application and plans, will comply with the drainage and stormwater management requirements set forth in Sections 15-262 and 15-263 of this chapter, so long as:

- (1) The application contains sufficient information to explain how the development will address drainage and stormwater management issues, and it appears reasonably likely to the permit issuing authority that the proposed drainage and stormwater management systems will function in such a manner that the development will comply with Sections 15-262 and 15-263; and
- (2) Before construction plans are approved, such plans must demonstrate that all the requirements of Sections 15-262 and 15-263 and related appendices will be satisfied. **(AMENDED 11/23/10, 02/25/14)**

(d) The presumption established by this chapter is that all of the information set forth in Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the Board of Aldermen or board of adjustment, the applicant may rely in

the first instance on the recommendations of the administrator as to whether more or less information than that set forth in Appendix A should be submitted.

(e) The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this chapter, such as applications for zoning permits to construct single-family houses or duplexes, or applications for sign permits, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

**Section 15-50 Site Planning Procedures for Major Subdivisions (AMENDED 05/25/99).**

(a) Before submitting an application for a conditional or special use permit for a major subdivision, the applicant shall comply with the requirements of this section.

(b) The applicant shall submit a site analysis plan drawn approximately to scale (1inch = 100 feet) that contains the following information:

- (1) The name and address of the developer;
- (2) The proposed name and location of the subdivision
- (3) The approximate total acreage of the proposed subdivision;
- (4) Topographic lines based on maps published by the U.S. Geological Survey; and
- (5) The location of all primary and secondary conservation areas as defined in subsections 15-198(b)(4) and (5).
- (6) The location of any existing or proposed road connections on adjacent property.

(c) After the site analysis plan has been submitted, the planning staff shall schedule a mutually convenient date to walk the property with the applicant and the applicant's site designer. Designated members of the Planning Board, Northern Transition Advisory Committee, Transportation Advisory Board, Environmental Advisory Board, Appearance Commission, and Affordable Housing Advisory Commission shall be notified of the date and time of this "on-site walkabout." The purpose of this visit is to familiarize town officials with the property's special features and to provide an informal opportunity for an interchange of information as to the developer's plans and the town's requirements. **(REWRITTEN 02/25/14) (AMENDED 06/25/2019).**

(d) Prior to the submission of a conceptual preliminary plan as described in subsection (e), the staff shall meet with the developer to discuss how the four-step approach to designing subdivisions described below could be applied to the subject property. This conference may be combined with the on-site walkabout.

(e) Following completion of the steps described in subsections (b), (c), and (d), the developer shall submit a conceptual preliminary plan of the proposed subdivision, prepared in accordance with the four-step process described in subsection (f). This plan shall be a preliminarily engineered sketch plan drawn to illustrate initial thoughts about a conceptual layout for open space, house sites, and street alignments. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout. The planning staff shall review this plan and provide comment to the developer on the overall pattern of streets, houselots, open space, and the treatment of primary and secondary conservation areas in light of the applicable requirements of this chapter.

(f) Each conceptual preliminary plan shall be prepared using the following four-step design process:

- (1) During the first step, all primary and secondary conservation areas are identified (and shown on the site analysis plan described in subsection (b)).
- (2) During the second step, potential sites are tentatively located. House sites should generally be located not closer than 100 feet from primary conservation areas and 50 feet from secondary conservation areas.
- (3) The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way and to identify points of existing or proposed connectivity in order to comply with Subsection 15-217(a). When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on primary and secondary conservation areas. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged. Street connections shall comply with the provisions of Section 15-214.
- (4) The fourth step is to draw in the lot lines.

(g) The conceptual preliminary plan shall demonstrate that the proposed development will satisfy the following objectives, as more particularly described in the remaining provisions of this chapter:

- (1) Protects and preserves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the Town for essential infrastructure or active or passive recreation amenities).
- (2) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. For example, locating houselots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant wildlife habitat or mature woodlands which raise an equal or greater preservation concern, as described in #5 and #8 below. The second involves predominantly agricultural areas, where remnant tree groups provide the only natural areas for wildlife habitat.
- (3) If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs and wildflowers (specifications for which should be based upon a close examination of the distribution and frequency of those species, found in a typical nearby roadside verge or hedgerow).
- (4) Maintains or creates an upland buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- (5) Designs around existing hedgerows and treelines between fields or meadows. Minimizes impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat, or those not degraded by invasive vines. Also, woodlands of any size on highly erodible soils with slopes greater than 10 percent should be avoided. However, woodlands in poor condition with limited management potential can provide suitable location for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, septic disposal field, etc) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- (6) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roadways. (For example, in open agrarian landscapes, a deep, “no-build, no-plant” buffer is recommended along the public roadway where those views or vistas are prominent or locally significant. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep “no-build, no-cut” buffer should be respected, to preserve existing vegetation.

- (7) Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- (8) Protects wildlife habitat areas of special species listed as endangered, threatened, or of special concern by the state or federal government.
- (9) Designs around and preserves sites of historic, archaeological, or cultural value, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, spring houses, barn foundations, cellar holes, earthworks, burial grounds, etc.
- (10) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, stone walls, hedgerows, etc.
- (11) Landscapes common areas (such as community greens), and both sides of new streets with native specie shade trees and flowering shrubs with high wildlife conservation value.
- (12) Provides active recreational areas in suitable locations offering convenient access by residents, and adequately screened from nearby houselots.
- (13) Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside footpaths should connect with off-road trails, which in turn should link with potential open space on adjoining undeveloped parcels (or with existing open space on adjoining developed parcels, where applicable).
- (14) Provides open space that is reasonably contiguous, and whose configuration is in accordance with the guidelines contained in the Design and Management Handbook for Preservation Areas, produced by the Natural Lands Trust. For example, fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels, and shall be designed as part of larger, contiguous, and integrated greenway systems, as per the policies in the Open Space and Recreation section of the Town's Ordinance.

#### **Section 15-51 Staff Consultation After Application Submitted.**

(a) Upon receipt of a formal application for a zoning, special use, or conditional use permit, or minor plat approval, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff's interpretation of the applicable

requirements of this chapter, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

(b) If the application is for a special use or conditional use permit, the administrator shall place the application on the agenda of the appropriate boards when the applicant indicates that the application is as complete as he intends to make it. However, as provided in Sections 15-56 and 15-57, if the administrator believes that the application is incomplete, he shall recommend to the appropriate boards that the application be denied on that basis.

### **Section 15-52 Zoning Permits.**

(a) A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning department.

(b) The administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in Section 15-50, that:

- (1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses as interpreted in the light of the other provisions of Article X, particularly Section 148.
- (2) The application is incomplete; or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations).

(c) If the administrator determines that the development for which a zoning permit is requested will have or may have substantial impact on surrounding properties, he or she shall, at least ten days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within 150 feet of the lot that is the subject of the application, informing them that: **(AMENDED 5/26/81)**

- (1) An application has been filed for a permit authorizing identified property to be used in a specified way;
- (2) All persons wishing to comment on the application should contact the administrator by a certain date; and
- (3) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the administrator.

(d) In determining under subsection © whether a development for which a zoning permit is requested “will have or may have [a] substantial impact on surrounding properties” the administrator shall consider, among other relevant factors, whether: **(AMENDED 5/21/02)**

- (1) The development involves a permit for property where a nonconforming situation exists: and
- (2) The development constitutes a departure from the development pattern of surrounding properties in terms of the type, density, intensity or scale of use.

(e) If the administrator is contacted by a person entitled to receive notice under subsection © within the time period specified in subsection ©(2) and requested to delay issuing the permit for an additional period of not more than ten days, the administrator shall comply with this request and so notify the permit applicant. **(AMENDED 5/21/02).**

**Section 15-53 Performance Guarantee to Ensure Compliance with Zoning Permit (AMENDED 10/24/06, 6/22/10).**

In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this chapter (including approved plans) before commencing the intended use of the property or occupying any buildings, the administrator may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security satisfactory to the administrator to ensure that all these requirements will be fulfilled within a reasonable period of time (not to exceed twelve months) determined by the administrator. The developer shall choose which of the above listed performance guarantees to use. Upon a showing of good cause, the administrator may approve the extension of such security for successive periods of up to twelve months each, so long as such extension does not compromise the health or safety of the general public or the occupants of the property that is the subject of the permit.

**Section 15-54 Special Use Permits and Conditional Use Permits (AMENDED 6/28/05).**

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

(b) An application for a conditional use permit shall be submitted to the Board of Aldermen by filing a copy of the application with the administrator in the planning department.

(c) The board of adjustment or the Board of Aldermen, respectively, shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- 1) The requested permit is not within its jurisdiction according to the table of permissible uses;
- 2) The application is incomplete, or
- 3) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations);
- 4) If completed as proposed, the development, more probably than not:
  - a) Will materially endanger the public health or safety; or
  - b) Will substantially injure the value of adjoining or abutting property; or
  - c) Will not be in harmony with the area in which it is to be located; or
  - d) Will not be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board.

**Section 15-54.1 Affordable Housing Goal and Alternative Methods of Achieving the Goal (AMENDED 6/28/05; REWRITTEN 6/26/07; AMENDED 10/28/08); AMENDED 6/26/12.**

(a) The Board of Aldermen has established as a policy goal that at least fifteen percent of the housing units within all new residential developments should consist of affordable housing units as described in Section 15-182.4. That section, as well as Section 15-188, establish incentives for developers to provide for such affordable housing. The purpose of this section is to establish alternative processes whereby developers who do not achieve the 15% objective can nevertheless contribute to the fulfillment of this goal in another way, and also to create a process to ensure that developers understand the importance of attempting to meet this goal.

(b) An applicant for approval of any residential development containing five or more dwelling units or lots that does not elect to meet the Board's 15% affordable housing policy goal by constructing affordable housing units or donating affordable housing lots (as those terms are described in Section 15-182.4) shall nevertheless be considered to have met this goal if such applicant makes a payment to the Town's Affordable Housing Special Reserve Fund in lieu of such construction or donation in an amount calculated as provided in this subsection:

- 1) The number of dwelling units or lots authorized within the development (including additional units or lots authorized under Section 15-182.4 when the developer con-

structs affordable units, provides affordable housing lots, or is authorized by the Board to construct density bonus units by making a payment in lieu of constructing units) shall be multiplied by 0.15 and the product shall be carried to two decimal places. **(REWRITTEN 1/22/08)**

- 2) There shall be subtracted from the product derived under subsection (b)(1) of this section (i) the number of affordable housing units or affordable housing lots the developer proposes to provide under Section 15-182.4, plus (ii) the number of affordable housing payment in lieu fees the Board has agreed to allow to be regarded as the equivalent of providing an affordable housing unit under Subsection 15-182.4(d1). **(REWRITTEN 1/22/08)**
- 3) The product derived under subsection (b)(2) shall be multiplied by the affordable housing payment in lieu fee. The result is the amount that must be paid to satisfy the provisions of this subsection (b).
- 4) The affordable housing payment in lieu fee shall be an amount established by the Board of Aldermen and shall be included in the Town's Miscellaneous Fees and Charges Schedule. In establishing the amount of this fee, the Board may consider (i) the extent to which the costs incurred by a developer in constructing and selling a two bedroom affordable housing unit (including land cost, the cost of construction, interest cost, closing costs, and other costs allocable to such unit) exceed the maximum amount for which that housing unit could be sold (as an affordable housing unit) by the developer in accordance with Section 15-182.4, (ii) the extent to which non-monetary factors might induce developers to prefer paying a fee in lieu of constructing an affordable housing unit if the monetary cost of doing one or the other were roughly equivalent, and (iii) any other factors the Board deems relevant in establishing a fee that provides developers with a practical and financially viable means of satisfying the Town's affordable housing policy goals. **(AMENDED 10/28/08; 6/26/12)**

(c) An applicant for approval of any residential development containing five or more lots restricted to single-family residential use (which lots the developer intends to sell undeveloped) who does not elect to meet the Board's 15% affordable housing policy goal by donating affordable housing lots (as those terms are described in Section 15-182.4) or making a payment in lieu as provided in subsection (b) above shall nevertheless be considered to have met this goal if such applicant chooses to follow the process that reserves lots for purchase by the Town of Carrboro and makes a payment for the eventual purchase of such lots as outlined in this subsection.

- 1) The developer shall request that a condition that obligates the developer to comply with the provisions of this subsection be added to the special or conditional use permit that authorizes the subdivision in question, and such condition shall be added by the permit issuing authority.

- 2) Before the final plat is approved, the developer shall designate on the plat a number of lots that are reserved for purchase by the Town of Carrboro. The number of lots so reserved shall be equal to the product of the number of lots within such subdivision multiplied by 0.15, rounded down to the nearest whole number.
- 3) The purchase price for each reserved lot shall be the estimated market price as agreed upon by the Town and the developer, which price shall be specified in the condition added to the special or conditional use permit.
- 4) The lots so designated shall be restricted by the permit to the development of affordable housing as defined in Section 15-182.4 of this chapter.
- 5) The lots so designated shall be in all other ways equal to the market rate lots and shall be provided with utility connections and other necessary infrastructure so as to render them buildable at the time of sale.
- 6) With respect to all other lots within the subdivision, no certificate of occupancy shall be issued for any dwelling unit constructed on such lots unless and until a payment is made to the town in an amount determined as follows:
  - a. Prior to approval of the permit for such subdivision, the applicant for the permit shall estimate the total market value of all developed lots (i.e. lots with houses completed on them) within the subdivision that are not restricted to affordable housing units, and calculate from this number the percentage number that, when applied to the total market value of such developed lots, would yield the number of dollars necessary to purchase the lots within the subdivision that are restricted to affordable housing use.
  - b. If the town accepts the percentage number derived above as a reasonable estimate, such percentage shall be included as part of the condition on the permit prohibiting the issuance of a certificate of occupancy until a payment is made to the town as provided in this subsection.
  - c. The amount of the payment shall be determined by applying the percentage determined in accordance with this subsection to the appraised value of the completed house and lot, as determined by a licensed appraiser.
- 7) The funds so received shall be held and reserved for the purchase of the lots designated to be developed with affordable housing.

- 8) The town shall have the right to purchase the designated lots at any time after final plat approval, and must purchase the lots not later than ninety days after sufficient funds to do so have been received by the town from the other lots.
- 9) If sufficient funds have not been received by the town to purchase one or more of the affordable housing lots after the last certificate of occupancy is issued for the other lots within the subdivision, then the town shall either purchase such affordable housing lot or lots using such funds as may be available to the town within ninety days after the date of issuance of such certificate of occupancy, or the condition limiting the use of such designated lot or lots to affordable housing shall be deemed to have expired and such designated lot or lots may thereafter be conveyed without this restriction.
- 10) If the funds received exceed the amount necessary to purchase the lots that have been reserved then such funds shall be retained in the fund and used for other purposes authorized for that fund.

(d) The Board finds that some developers may not fully understand how the affordable housing provisions of this chapter operate or the incentives that are available under the ordinance to encourage affordable housing. Therefore, the Board concludes that, when developers of proposed developments containing five or more dwelling units propose to construct such developments without meeting the affordable housing goals established by the town for new developments, it may be beneficial to both the developers and the town for the Board and such developers to have an opportunity, prior to the formal consideration of a permit request, to discuss the town's affordable housing policy, the affordable housing opportunities and incentives provided by this chapter, and any questions or concerns such developers may have about utilizing those provisions. Subsections (e) and (f) below provide for that opportunity.

(e) The applicant for any residential development containing five or more lots or dwelling units, and therefore required to obtain either a special use permit from the Board of Adjustment or a conditional user permit from the Board of Aldermen, shall be required to participate in an Affordable Housing Review Meeting with the Board of Aldermen if the residential development does not meet the Board's affordable housing goal in any of the ways described in this section or Section 15-182.4.

(f) Should an applicant for any residential development containing five or more lots or dwelling units decide in the course of the development review process to change the application in such a way that it no longer satisfies the Board's affordable housing policy goal, further review of the project will be delayed until the applicant participates in an Affordable Housing Review Meeting with the Board of Aldermen.

**Section 15-55 Burden of Presenting Evidence, Burden of Persuasion.**

(a) The burden of presenting a complete application (as described in Section 15-49) to the permit-issuing board shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing) the application shall be presumed to be complete.

(b) Once a complete application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in Subdivisions 15-54(c)(1), (3), or (4) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists for denying the application as provided in Subdivision 15-54(c)(1), (3), or (4).

- 1) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Subdivision 15-54(c)(4) rests on the party or parties urging that the requested permit should be denied.

**Section 15-55.1 Findings and Burden of Proof for Conditional Use Permits Required for Taller Buildings in Commercial Districts (AMENDED) 10/25/05.**

If a conditional use permit for a development is required under Section 15-147 (j), then, notwithstanding the provisions of Subsection 15-54 (c) and Section 15-55 of this chapter, the applicant for such conditional use permit shall have the burden of demonstrating that, if completed as proposed, the development:

- (1) Will not substantially injure the value of adjoining or abutting property; and
- (2) 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.
- (3) Will be in general conformity with the Land Use Plan, Thoroughfare Plan, and other plans officially adopted by the Board.

**Section 15-56 Recommendation on Special Use Permit Applications.**

(a) When presented to the board of adjustment at the hearing, the application for a special use permit shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 15-49 (Application To Be Complete) and the other requirements of this chapter, as well as any staff recommendations for additional requirements to be imposed by the board of adjustment.

(b) If the staff proposes a finding or conclusion that the application fails to comply with Section 15-49 or any other requirements of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

(c) The board of adjustment may, by general rule applicable to all cases or any class of cases, or on a case by case basis, refer applications to the planning board, the transportation advisory board, the environmental advisory board, the affordable housing advisory commission, or the appearance commission to obtain the recommendations of some or all of these boards. Attachment C -2 of 3. **(REWRITTEN 02/25/14, AMENDED 06/25/19).**

**Section 15-57 Recommendations on Conditional Use Permits.**

(a) Before being presented to the Board of Aldermen, an application for a conditional use permit shall be referred to the planning board, appearance commission, environmental advisory board, and the transportation advisory board for joint review and action in accordance with this section. The Board of Aldermen may not hold a public hearing on a conditional use permit application until the planning board, affordable housing advisory commission, appearance commission, environmental advisory board, and the transportation advisory board have had an opportunity to consider the application (pursuant to standard agenda procedures) at one regular meeting. In addition, at the request of the planning board, appearance commission, environmental advisory board or the transportation advisory board, the Board of Aldermen may continue the public hearing to allow the respective boards more time to consider the application. **(AMENDED 09/19/19, REWRITTEN 02/25/14, AMENDED 06/25/19).**

(b) When presented to the planning board, affordable housing advisory commission, appearance commission, environmental advisory board and the transportation advisory board, the application shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with Section 15-49 and other requirements of this chapter, as well as any staff recommendations for additional requirements to be imposed by the Board of Aldermen. If the planning staff report proposes a finding or conclusion that the application fails to comply with Section 15-49 or any other requirement of this chapter, it shall identify the requirement in questions and specifically state supporting reasons for the proposed findings and conclusions. **(AMENDED 09/19/95, AMENDED 06/25/19).**

(c) The planning board, affordable housing advisory commission, appearance commission, environmental advisory board, and the transportation advisory board shall consider the application and the attached staff report in a timely fashion, and may, in its discretion, hear from the applicant or members of the public. **(AMENDED 09/19/95, AMENDED 06/25/19).**

(d) After reviewing the application, the planning board, affordable housing advisory commission, appearance commission, environmental advisory board, and the transportation advisory board shall report to the Board of Aldermen whether it concurs in whole part with the staff's proposed findings and conditions, and to the extent there are differences the respective boards shall propose their own recommendations and the reasons therefore. **(AMENDED 09/19/19, REWRITTEN 02/25/14, AMENDED 06/25/19).**

(e) In response to the planning board's, the affordable housing advisory commission's, appearance commission's, environmental advisory board's or the transportation advisory board's recommendations, the applicant may modify his application prior to submission to the Board of Aldermen, and the planning staff may likewise revise its recommendations. **(AMENDED 09/19/19, REWRITTEN 02/25/14, AMENDED 06/25/19).**

#### **Section 15-58 Board Action On Special Use and Conditional Use Permits.**

In considering whether to approve an application for a special or conditional use permit, the board of adjustment or the Board of Aldermen shall proceed according to the following format:

- (1) The board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the board that the application is complete.
- (2) The board shall consider whether the application complies with all of the applicable requirements of this chapter. If a motion to this effect passes, the board need not make further findings concerning such requirements. If such a motion fails or is not made then a motion shall be made that the application be found not in compliance with one or more of the requirements of this chapter. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the board to be unsatisfied through this process.
- (3) If the board concludes that the application fails to comply with one or more requirements of this chapter, the application shall be denied. If the board concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in Subdivision 15-

54(c)(4). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

**Section 15-59 Additional Requirements on Special Use and Conditional Use Permits.**

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

- (1) Will not endanger the public health or safety; or
- (2) Will not injure the value of adjoining or abutting property; or
- (3) Will be in harmony with the area in which it is located; ~~and~~ or
- (4) Will be in conformity with the Carrboro Land use Plan, Thoroughfare Plan, or other plan officially adopted by the Board.

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

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

(d) In the case of a conditional use zoning district, specific conditions may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the permit requirements. Conditions and site-specific standards imposed in a conditional use permit as a part of a conditional use zoning district shall be limited to those that address the conformance of the development and use of the site to Town ordinances and any officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. **(AMENDED 10/24/06)**

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

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

**Section 15-60 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits (AMENDED 10/08/96; 10/24/06; 6/22/10).**

(a) With respect to unsubdivided developments, in cases when, because of weather conditions or other factors beyond the control of the special or conditional use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter (including approved plans) before commencing the intended use of the property or occupying any buildings, the manager may authorize the commencement of the intended use or occupancy of buildings (insofar as the requirements of this chapter are concerned) if the permit recipient provides a surety bond, letter of credit or other security satisfactory to the manager to ensure that all these requirements will be fulfilled within a reasonable period of time (not to exceed twelve months) determined by the manager. The developer shall choose which of the above listed performance guarantees to use. Upon a showing of good cause, the manager may approve the extension of such security for successive periods of up to twelve months each, so long as such extension does not compromise the health or safety of the general public or the occupants of the property that is the subject of the permit.

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

(c) The authorization provided to the manager under subsections (a) and (b) of this section shall also apply to fulfillment of additional requirements upon the special or conditional use permit recipient by the permit issuing board in accordance with Section 15-59 unless the board specifies a certain date by which or a schedule according to which such requirements must be met.

**Section 15-61 Completing Developments in Phases.**

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of Section 15-47 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 15-60 (exceptions to Section 15-47) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of subsection (a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

- (1) If the improvement is one required by this chapter then the developer may utilize the provisions of Subsections 15-60(a) or 15-60(c);
- (2) If the improvement is an amenity not required by this chapter or is provided in response to a condition imposed by the board, then the developer may utilize the provisions of Subsection 15-60(b).
- (3) Changes in phasing schedules may be made in the same manner as other permit modifications pursuant to the procedures set forth in Section 15-64. **(AMENDED 2/24/87)**

### **Section 15-62 Expiration of Permits.**

(a) Zoning, special use, conditional use, and sign permits shall expire automatically if, within two years after the issuance of such permits: **(AMENDED 5/26/81)**

- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
- (2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 15-61), this requirement shall apply only to the first phase.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period (i) of one year if the date of discontinuance occurs more than one year after the issuance of the permit, or (ii) equal to two years less the time between the issuance of the permit and the time work is discontinued if the date of discontinuance occurs less than one year after the issuance of the permit, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 15-63.

(c) The permit-issuing authority may extend for a period up to two years the date when a permit would otherwise expire pursuant to subsections (a) and (b) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods of up to two years upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit. **(AMENDED 06/23/15)**

(d) For purposes of this section, a permit within the jurisdiction of the Board of Aldermen or the board of adjustment is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place: **(AMENDED 11/10/81)**

- (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or
- (2) The zoning administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required under G.S. 15-46(c).

(e) Notwithstanding any of the provisions of Article VIII (Nonconforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

### **Section 15-63 Effect of Permit on Successors and Assigns.**

(a) Zoning, special use, conditional use and sign permits authorize the permittee to make use of the land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit

for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

- (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in subsection (b)) of the existence of the permit at the time they acquired their interest.

(b) Whenever a zoning, special use or conditional use permit is issued to authorize development (other than single-family residences or duplexes) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgment that the permit has been issued so that the permit may be recorded in the Orange County Registry and indexed under the record owner's name as grantor.

**Section 15-64 Amendments to and Modifications of Permits. (AMENDED 5/25/04; 11/22/05).**

(a) Subject to subsection (e), insignificant deviations from the permit (including approved plans) issued by the Board of Aldermen, the board of adjustment, or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. **(AMENDED 5/26/81; 6/22/82)**

(b) Subject to subsection (e), minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Unless it is requested by the permit-issuing authority, no public hearing shall be required for such minor modification. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. **(AMENDED 6/22/82; 06/06/89)**

(c) Subject to subsection (e), all other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Aldermen or board of adjustment, new conditions may be imposed in accordance with Section 15-59, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit. **(AMENDED 6/22/82)**

(d) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (a), (b), and (c). **(AMENDED 5/26/81)**

(e) Notwithstanding the foregoing provisions of this section, whenever the board issues a conditional use permit for a planned industrial development (use classification 30.000), the administrator may authorize changes in the approved plans for such development that do not substantially alter the character or pattern of development approved by the board, so long as the revised plans continue to comply with the provisions of this chapter and any conditions imposed by the board in issuing the permit. In granting a permit for a planned industrial development, the board may identify more specifically those elements of the plans concerning which changes may be approved by the administrator under this subsection. **(AMENDED 6/22/82)**

(f) An applicant requesting a change in approved plans shall point out to the administrator, specifically and in writing, what deviation or changes are requested. The administrator shall respond in writing. No changes shall be authorized except in conformity with this section. **(AMENDED 1/22/85)**

(g) When (i) a request for a change in a permit is made under this section (whether for an insignificant deviation, minor modification, or major modification), and (ii) the use of the property is not changed, and (iii) some type of nonconforming situation other than a nonconforming use exists on the property, then the permit change may be approved without requiring the elimination of the nonconforming situations. However, (i) any new development authorized by the permit change shall comply with current standards to the extent reasonably practicable, and (ii) the permit issuing authority may require the elimination of nonconforming situations when the cost (financial and otherwise) of doing so is clearly proportional to the benefits of elimination of such nonconformity.

(h) Notwithstanding the other provisions of this section, whenever town-owned facilities or services are proposed as an additional use on property for which a special use permit or a conditional use permit is already in effect the permit required by this article for the new town-owned facility or service shall be as shown in Section 15-146. **(AMENDED 11/25/05)**

### **Section 15-65 Reconsideration of Board Action.**

Whenever (i) the Board of Aldermen disapproves a conditional use permit application, or (ii) the board of adjustment disapproves an application for a special use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

- (1) Circumstances affecting the property that is the subject of the application have substantially changed; or

- (2) The application is changed in some substantial way; or
- (3) New information is available that could not with reasonable diligence have been presented at a previous hearing.

**Section 15-66 Applications to be Processed Expeditiously.**

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this chapter.

**Section 15-67 Maintenance of Common Areas, Improvements, and Facilities.**

The recipient of any zoning, special use, conditional use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements or facilities required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

**Section 15-68 through 15-75 Reserved.**

**PART II. MAJOR AND MINOR SUBDIVISIONS**

**Section 15-76 Regulation of Subdivisions.**

Major subdivisions are subject to a two step approval process. Physical improvements to the land to be subdivided are authorized by a conditional use permit or special use permit as provided in Part I of Article IV of this chapter, and sale of lots is permitted after final plat approval as provided in Section 15-79. Minor subdivisions only require a one step approval process final plat approval (in accordance with Section 15-78). (AMENDED 12/15/87)

**Section 15-77 No Subdivision Without Plat Approval.**

(a) As provided in G.S. 160A-375, no person may subdivide his land except in accordance with all of the provisions of this chapter. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of Section 15-78 or Section 15-79 and recorded in the Orange County Registry.



(3) A Certificate of Survey and Accuracy, in the form stated in subdivision 15-80(3).

(d) The planning director shall take expeditious action on an application for minor subdivision plat approval as provided in Section 15-66. However, either the planning director or the applicant may at any time refer the application to the major subdivision approval process.

(e) No more than a total of four lots may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period of time. **(AMENDED 7/21/87)**

(f) Subject to subsection (d), the planning director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in Section 15-15 or the application or the proposed subdivision fails to comply with subsection (e) or any other applicable requirements of this chapter. **(AMENDED 5/26/81)**

(g) If the subdivision is disapproved, the planning director shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(h) Approval of any plat is contingent upon the plat being recorded within thirty days after the date the Certificate of Approval is signed by the manager or his designee. **(AMENDED 5/26/81)**

### **Section 15-79 Major Subdivision Approval Process.**

(a) The town manager shall approve or disapprove major subdivision final plats. Notwithstanding the foregoing, if, at the time the conditional use permit or special use permit was issued for the subdivision pursuant to Part I of Article IV of this Chapter, the permit issuing board requested that the final plat be reviewed by it, then the Board shall approve or disapprove the major subdivision final plat. **(AMENDED 12/15/87; 07/27/89)**

(b) The applicant for major subdivision plat approval shall submit to the administrator a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the Orange County Register of Deeds' Office for recording purposes, and having dimensions as follows: either (i) 21" x 30", (ii) 12" x 18", or (iii) 18" x 24". When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one-inch equals not more than one hundred feet. The applicant shall also submit two prints of the plat.

(c) In addition to the appropriate endorsements, as provided in Section 15-80, the final plat shall contain the following information:

- (1) All of the information required by G.S. 47-30 and G.S. 39-32.3;
- (2) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Orange County Registry;
- (3) The name of the subdivision owner or owners;
- (4) The township, county and state where the subdivision is located; and
- (5) The name of the surveyor and his registration number and the date of survey.

(d) The applicable final plat approval authority shall approve the proposed plat unless it finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this chapter or that the final plat differs substantially from the plans and specifications approved in conjunction with the conditional use permit that authorized the development of the subdivision. **(AMENDED 12/15/87)**

(e) If the final plat is disapproved by the town manager, the applicant shall be furnished with a written statement of the reasons for the disapproval and may appeal the decision pursuant to Section 15-91. If the final plat is disapproved by the Board of Aldermen or the board of adjustment, the applicant shall be furnished with a written statement of the reasons for the disapproval and shall be given an opportunity to petition the applicable plat approval authority for a hearing, to be conducted in accordance with the procedures for processing conditional or special use permit applications. Following such hearing, the Board may reverse, modify, or affirm its earlier decision. **(AMENDED 12/15/87; 06/27/89)**

(f) Approval of a final plat is contingent upon the plat being recorded within thirty (30) days after the approval certificate is signed by the manager. **(AMENDED 11/10/81)**

### **Section 15-80 Endorsements on Major Subdivision Plats.**

All major subdivision plats shall contain the endorsements listed in subdivision (1), (2), and (3) herein. The endorsements listed in subdivision (4) shall appear on plats of all major subdivisions located outside the corporate limits of the town but within the planning jurisdiction. The endorsement listed in subdivision (5) shall appear on plats when required by federal regulations.

#### **(1) CERTIFICATE OF APPROVAL**

I hereby certify that all streets shown on this plat are within the Town of Carrboro's planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within ten

months after the date below) has been ensured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Chapter 15 of the Carrboro Town Code, and therefore this plat has been approved by the [Carrboro Town Manager] [Carrboro Board of Aldermen] [Carrboro Board of Adjustment], subject to its being recorded.  
**(AMENDED 7/21/87; 12/15/87; 06/27/89)**

\_\_\_\_\_  
 Date Carrboro Town Manager (or designee)

(2) **CERTIFICATE OF OWNERSHIP AND DEDICATION**

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Carrboro, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Board of Aldermen in the public interest.

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Owner

\_\_\_\_\_  
 Notarized

(3) **CERTIFICATE OF SURVEY AND ACCURACY (AMENDED 11/26/85)**

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_); that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 Seal or Stamp

\_\_\_\_\_  
 Surveyor

\_\_\_\_\_  
 Registration Number

North Carolina, \_\_\_\_\_ County, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Stamp or Seal \_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

(4) **DIVISION OF HIGHWAYS DISTRICT ENGINEER CERTIFICATE**

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards of the N.C. State Department of Transportation for acceptance of subdivision streets on the State highway system for maintenance.

\_\_\_\_\_  
District Engineer

(5) **CERTIFICATE FOR FEDERALLY FUNDED PROJECT**

I hereby certify that the specifications for street grading, drainage improvements, and paving for the group housing development shown on this plat, which development is being financed or insured under regulations of the United States Government, are equal to or of a higher standard than required by the subdivision regulations of the Town of Carrboro and the Standards of the N.C. Department of Transportation.

\_\_\_\_\_  
Planning Director

**Section 15-81 Plat Approval Not Acceptance of Dedication Offers.**

Approval of a plat does not constitute acceptance by the town of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat. However, the town may accept any such offer of dedication by resolution of the Board, by issuing to the dedicator a written notice of acceptance signed by the town manager, or by actually exercising control over and maintaining such facilities. (AMENDED 06/06/89)

**Section 15-82 Protection Against Defects.**

(a) Whenever (pursuant to Section 15-60) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is posted pursuant to Section 15-60 shall guarantee that any defects in such facilities

or improvements that appear within fifteen months after the offer of dedication of such facilities or improvements is accepted shall be corrected by the developer. **(AMENDED 04/27/82; 06/06/89)**

(b) Whenever all facilities or improvements intended for dedication are installed before occupancy, use or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within fifteen months after the offer of dedication of such facilities is accepted. **(AMENDED 04/27/82; 06/06/89)**

(c) An architect or engineer retained by the developer shall certify to the town that all facilities and improvements to be dedicated to the town have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance by the town of the offer of dedication of such facilities or improvements.

(d) For purposes of this section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the town to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this chapter.

### **Section 15-83 Maintenance of Dedicated Areas Until Acceptance.**

As provided in Section 15-67, all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

#### **Section 15-83.1 Display of Approved Site Plan Required (AMENDED 01/28/92).**

(a) Prior to final plat approval, the developer of any residential subdivision that contains or is designed to contain when fully developed a total of more than four lots shall display in a prominent outdoor location on the development site a copy of a site plan drawn at a minimum scale of 1” = 100’ that shows town approved lot configurations, easements, street patterns, amenities, and other design features that may affect the use or enjoyment of property purchased within such development. Included on the site plan shall be a prominently displayed notice advising prospective purchasers to contact the Carrboro Planning Department for additional information concerning the approved development plans.

(b) For purposes of this section the term “design features” includes but is not limited to water, sewer, or electric power easements, recreational amenities, street extensions or future streets, bikeways, and proposed future phases. When a private street is proposed, such signs shall indicate that maintenance will be the responsibility of a homeowners association.

(c) The site plan required under this section shall be placed within a weatherproof display case. It shall be regarded as a continuing condition of the developer's permit that the site plan displayed under this section shall be kept current as changes in development plans are approved by the town and shall remain at all times sufficiently legible to satisfy the disclosure objectives of this section. The site plan shall remain on display as long as lots within the subdivision remain in the possession of the developer to whom the conditional use permit was granted or his successors.

(d) The site plan displayed in accordance with this section as well as the location and construction of the display case shall be subject to the prior approval of the zoning administrator, which approval shall not be unreasonably withheld.

(e) The site plan display required under this section shall not be regarded as a sign for purposes of Article XVII of this chapter.

**Section 15-83.2 Signs Posted to Disclose Development Plan (AMENDED 01/28/92).**

(a) Prior to final plat approval, the developer of any residential subdivision that contains or is designed to contain when fully developed to total of more than four lots may be required by the permit issuing board to post a sufficient number of signs throughout the subdivision in appropriate locations to provide notification (to the extent reasonably practicable) to the prospective purchasers of lots or dwelling units within the area for which final plat approval is requested of design features proposed for the subdivision that may significantly affect the use or enjoyment of property purchased within the subdivision.

(b) For purposes of this section the term "design features" includes but is not limited to water, sewer, or electric power easements, recreational amenities, street extensions or future streets, bikeways, and proposed future phases. When a private street is proposed, such signs shall indicate that maintenance will be the responsibility of a homeowners association.

(c) Notwithstanding the other provisions of this section, no signs need be posted where the impact of the design feature is evident upon inspection of the property (e.g., a power line or sewer line is already constructed and the easement boundaries are apparent).

(d) Signs posted in conformity with this section shall remain so long as lots within the subdivision remain in the possession of the developer to whom the special or conditional use permit was granted or his successor, and it shall be regarded as a continuing condition of the permit authorizing the subdivision that such signs be maintained to serve the purposes intended by this section. However, in any enforcement action it shall be a valid defense for the developer to show that signs have been posted as required but have been deliberately removed or destroyed without such developer's consent or acquiescence.

(e) The developer of a subdivision that is subject to the provisions of this section shall submit with his application for a conditional or special use permit a sign plan that shows the location, size, design and content of every sign proposed to be posted to satisfy the requirements of this action. The permit issuing board shall approve the plan if it demonstrates substantial compliance with this action. Signs erected or posted pursuant to such an approved sign plan are exempt from the provisions of Article XVII of this chapter. Signs shall be erected prior to final plat approval for each phase.

**Section 15-83.3 Covenants May Not Prohibit Devices that Generate or Conserve Energy or Water (AMENDED 04/26/11).**

(a) This section is authorized by Chapter 42 7 of the 2009 Session Laws, codified as Section 10-2 of the Carrboro Town Charter.

(b) Subject to the provisions of subsections (c) and (d) of this section, lots within a residential subdivision may not be conveyed subject to covenants or restrictions that run with the land unless, prior to approval of the final plat creating such lots, the final plat approval authority (planning director for minor subdivisions and town manager for major subdivisions) has determined that such covenants or restrictions are consistent with the requirements of this section. The developer shall submit any such proposed covenants to the town along with or subsequent to the proposed final plat. Final plat approval for such subdivision may not be granted if the covenants or restrictions prohibit, or have the effect of prohibiting, or allow a property owners association to prohibit, the orderly installation of solar collectors, clotheslines, rain barrels, garden fences, or any further technology or device designed specifically to generate or conserve energy through the use of renewable resources or to capture, store, or reuse water, so long as such installation is done by or on behalf of a person who otherwise has a property right to install such device.

(c) The provisions of subsection (b) of this section do not apply to any condominium created under Chapter 47A or 47C of the General Statutes. Nor are such provisions intended to prohibit the adoption or enforcement of any covenant or restriction, or any rule or regulation adopted by a property owners association, that does any of the following:

- (1) Affects a common area.
- (2) Is designed to ensure that any device described in subsection (b) is installed and maintained in such a manner that it does not pose a risk to the safety of any person or domesticated animal.
- (3) Regulates the location or screening of any device described in subsection (b), provided the covenant or restriction, or rule or regulation adopted by a property owners association, does not have the effect of preventing the reasonable use of such device.

- (d) The provisions of this section apply only to covenants or restrictions recorded after the effective date of this section.

### **PART III. CONSTRUCTION DRAWING APPROVAL (AMENDED 06/06/89)**

#### **Section 15-84 Construction Drawings Shall Conform To Land Use Permit Plans.**

(a) Construction drawings prepared for development projects and prepared in accordance with Section 15-49 (c) shall conform to the plans which have been approved as part of the appropriate land use permitting process (zoning permit, special use permit, or conditional use permit). In the event that the detailed site work which is required for the preparation of construction drawings makes necessary modifications or deviations from the general design approved during the land use permitting process, such changes may require additional review by the relevant permit-issuing authority, as described in Section 15-64, prior to the start of construction plan review.

(b) For utility extension projects, which are exempted from the requirement to obtain a zoning, special use or conditional use permit by the provisions of Section 15-151, construction plans shall be submitted to and approved by the public works director prior to the commencement of construction activity.

#### **Section 15-85 Construction Drawing Submittal Process.**

As set forth in Section 15-49 (c), persons desiring to construct any development project in the area within the town's planning jurisdiction may be required to submit construction drawings for review and approval by the town. Submittal of construction drawings shall be made only after a land use permit (zoning, special use, or conditional use permit) has been issued for the project in question, and filed with the Orange County Register of Deeds, if required by Section 15-63. Construction drawings are to be submitted to the land use administrator for review and approval in accordance with the process described below.

(a) **PRE-SUBMITTAL CONFERENCE.** Persons preparing construction drawings are requested to confer with the land use administrator prior to making the formal construction drawings submittal described below in subsection (b). This conference is suggested in order to minimize the time required for the construction drawing review process. It is especially encouraged where such drawings will require modifications to the plans approved as part of the land use permitting process in order to comply with the provisions of Section 15-84. As described in Section 15-64, land use permit modifications can require additional review by the permit-issuing authority, prior to construction plan review.

(b) **INITIAL SUBMITTAL.** Four (4) complete sets of construction drawings shall be submitted to the land use administrator for review. Construction drawing size and content shall conform to the requirements set forth in Section 15-87. The land use administrator will review the initial submittal and will send the applicant written comments outlining the additions or corrections that are considered necessary.

(c) **DRAWINGS REVISED AND RESUBMITTED.** After receiving the land use administrator's comments on the initial submittal, the applicant shall revise the drawings to incorporate those comments. The applicant shall resubmit four (4) sets of revised construction drawings for review. The land use administrator will review the revised drawings and will send the applicant written comments outlining any additions or corrections that may still be considered necessary. The applicant shall then revise the construction drawings accordingly. This process shall continue until such time as the land use administrator is satisfied as to the sufficiency of the drawings and their conformance with the required standard specifications included in Appendix C.

(d) **FINAL SUBMITTAL.** Once the land use administrator is satisfied as to the sufficiency of the construction drawings, a full set of final construction drawing materials shall be submitted for approval. These materials shall include at a minimum:

- (1) five (5) complete sets of final construction drawings, including all the revisions as requested by the land use administrator, and sealed by the professional engineer responsible for their preparation. Materials that must be included in a complete set of construction drawings are described in Section 15-87 below;
- (2) a letter from the Orange Water and Sewer Authority, if applicable, certifying their approval of the final construction drawings;
- (3) letters from the appropriate utility providers certifying their approval of the final construction drawings;
- (4) copies of any applicable state or federal permits or approvals;
- (5) a copy of the Orange County Sedimentation and Erosion Control permit, if required, or a copy of correspondence from the Erosion Control Office indicating that a permit is not required;
- (6) a copy of all approved driveway permits and/or encroachment agreements from the North Carolina Department of Transportation.

The land use administrator shall review the final construction drawing package submittal, shall approve them for construction if they are found to be complete and sufficient, and shall notify the applicant in writing of the approval.

**Section 15-86 Record Drawings.**

Upon completion of construction, a set of record drawings reflecting as-built conditions must be submitted prior to the final acceptance of the streets and any other facilities by the town. The record drawings must be labeled RECORD DRAWINGS and sealed and signed by the engineer preparing them. The record drawings shall be permanent reproducible drawings, on mylar, 2 mil minimum weight.

**Section 15-87 Construction Drawing Submittal Requirements.**

(a) **CERTIFICATION OF DRAWINGS.** All construction drawings submitted shall be signed by and carry the seal of the professional engineer, professional architect or professional landscape architect responsible for that preparation, who shall be licensed to practice in the State of North Carolina. **(AMENDED 10/9/90)**

(b) **MATERIALS TO BE SUBMITTED AS PART OF THE CONSTRUCTION DRAWINGS PACKAGE:** A complete set of construction drawings submitted in accordance with the provisions of Section 15-49 (c) shall include at least the following items. The Town's required standard construction specifications, for use in preparing construction drawings are outlined in Appendix C.

- (1) Project site drawings including all information required by Appendix A as part of the approved land use permit submittal, including but not limited to footprints of existing and proposed buildings, parking areas, the location of 100-year floodplain limits, existing and proposed contour elevations at 2 foot intervals. These drawings shall also include the boundary of the tract with all courses and distances indicated. One corner of the tract shall be tied to the North Carolina Plane Coordinate System. Plan size shall generally be 24 inches by 36 inches, however the land use administrator may permit smaller sized plans if that is deemed appropriate for a smaller project; and
- (2) A summary illustrative site plan drawn to a scale of 1"=100', on one 24" X 36" sheet if possible, or two sheets with match lines if not possible, showing a vicinity map, the outline of the project, and the location of lots, buildings, roads and other significant project features; and
- (3) Plan and profile sheets indicating all existing and proposed roads, sidewalks, parking areas and driveways, cut-and-fill lines, the location of all utilities, and all drainage improvements. A summary roadway plan showing the street layout and all centerline and curve data shall be submitted in addition to a separate plan and profile sheet for each proposed new street; and

- (4) Specifications sheets showing details for all curb and gutter treatments, proposed pavement treatments, and specifications for all erosion control, drainage and permanent stormwater control structures and facilities; and
- (5) A grading, drainage and erosion control plan including data on construction sequencing and a schedule for re-stabilization of denuded areas. Drainage and stormwater facility drawings shall include information on materials used, pipe sizes and lengths, invert elevations, and top elevations for each structure, including but not limited to catch basins, curb inlets, stormwater retention or detention structures, and stormwater velocity dissipaters. In addition, a complete set of hydrologic calculations of existing and proposed runoff (prepared as described in Appendix C) shall be submitted, and estimated stormwater exit volumes and velocities provided for each proposed drainage and stormwater control structure; and
- (6) A landscape and tree protection plan showing the location of all trees greater than 18 inches in diameter and rare species trees that are to be retained, all proposed plantings, and the location of other existing trees that are to be retained, and giving specifications for their preservation during construction; and
- (7) A water and sewer location plan meeting the requirements of the Orange Water and Sewer Authority, and showing the location of all easements and proposed fire hydrants; and
- (8) A utilities plan showing primary and secondary electrical and natural gas distribution and service lines, and the location of all electrical and natural gas easements; and
- (9) A preliminary soils evaluation as described in Appendix C (Standard Specifications), prepared by a certified soils engineer and addressing the soils' suitability for street construction, as well as any potential problems and recommendations. The report shall confirm the adequacy of the standard pavement design required by the town, or, if the subgrade soils are expected to have poor CBR (California Bearing Ratio) values, and if the standard design is considered inadequate, the report shall present a recommended alternative design for consideration.

**PART IV. ADEQUATE PUBLIC SCHOOL FACILITIES (JULY 17, 2003)**

**Section 15-88 Purpose.**

The purpose of this Part IV is to ensure that, to the maximum extent practical, approval of new residential development will become effective only when it can reasonably be expected that adequate public school facilities will be available to accommodate such new development.

**Section 15-88.1 Certificate of Adequacy of Public School Facilities.**

(a) Subject to the remaining provisions of this part, no approval under this ordinance of a conditional or special use permit for a residential development shall become effective unless and until Certificate of Adequacy of Public School Facilities (CAPS) for the project has been issued by the School District. Notwithstanding the foregoing, this subsection shall not apply to conditional use permits for residential developments less than five lots or dwelling units in the WR, B-5 and WM-3 zoning districts.

(b) A CAPS shall not be required for a general use or conditional use rezoning or for a master land use plan. However, even if a rezoning or master plan is approved, a CAPS will nevertheless be required before any of the permits or approvals identified in subsection (a) of this section shall become effective, and the rezoning of the property or approval of a master plan provides no indication as to whether the CAPS will be issued. The application for rezoning or master plan approval shall contain a statement to this effect.

(c) A CAPS must be obtained from the School District. The School District will issue or deny a CAPS in accordance with the provisions of the Memorandum of Understanding between Carrboro, Chapel Hill, Orange County, and the Chapel Hill Carrboro School District dated July 17, 2003.

(d) A CAPS attaches to the land in the same way that development permission attaches to the land. A CAPS may be transferred along with other interests in the property with respect to which such CAPS is issued, but may not be severed or transferred separately.

**Section 15-88.2 Service Levels.**

(a) This section describes the service levels regarded as adequate by the parties to the Memorandum of Understanding described in subsection (b) with respect to public school facilities.

(b) As provided in the Memorandum of Understanding between Orange County, Chapel Hill, Carrboro, and the Chapel Hill/Carrboro School District, adequate service levels for public schools shall be deemed to exist with respect to a proposed new residential development if, given the number of school age children projected to reside in that development, and

considering all the factors listed in the Memorandum of Understanding, projected school membership for the elementary schools, the middle schools, and the high school(s) within the Chapel Hill/Carrboro School District will not exceed the following percentages of the building capacities of each of the following three school levels:

Elementary school level	<u>105%</u>
Middle school level	<u>107%</u>
High school level	<u>110%</u>

For the period of time beginning the effective date of this ordinance and terminating on the day on which the third high school within the Chapel Hill-Carrboro City School District is first attended by high school students, the determination by the Chapel Hill-Carrboro City School District that adequate service levels for public schools exist shall be made without regard to whether or not projected capacity of the High School level exceeds 110% of Building Capacity. On and after the day on which the third high school within the Chapel Hill-Carrboro City School District is first attended by high school students, determination by the Chapel Hill-Carrboro City School District that adequate service levels for public schools exist shall be made only if projected capacity of each school level does not exceed the following:

Elementary School	105% of Building Capacity
Middle School	107% of Building Capacity
High School	110% of Building Capacity

For purposes of this ordinance, the terms "building capacity" and "school membership" shall have the same meaning attributed in the Schools Adequate Public Facilities Memorandum of Understanding among the Towns of Carrboro, Chapel Hill, Orange County, and the Chapel Hill/Carrboro Board of Education.

### **Section 15-88.3 Expiration of Certificates of Adequacy of Public School Facilities.**

A CAPS issued in connection with approval of a conditional or special use permit shall expire automatically upon the expiration of such permit approval.

### **Section 15-88.4 Exemption From Certification Requirement for Development with Negligible Student Generation Rates.**

In recognition of the fact that some new development will have a negligible impact on school capacity, a CAPS shall not be required under the following circumstances:

- a. For residential developments restricted by law and/or covenant for a period of at least thirty years to housing for the elderly and/or adult care living and/or adult special needs;

- b. For residential developments restricted for a period of at least thirty years to dormitory housing for university students.

If the use of a development restricted as provided above changes, then before a permit authorizing such change of use becomes effective, a CAPS must be issued just as if the development were being constructed initially.

**Section 15-88.5 Applicability to Previously Approved Projects and Projects Pending Approval.**

(a) Except as otherwise provided herein, the provisions of this part shall only apply to applications for approval of conditional or special use permits that are submitted for approval after the effective date of this ordinance.

(b) The provisions of this part shall not apply to amendments to special or conditional use permit approvals issued prior to the effective date of this ordinance so long as the approvals have not expired and the proposed amendments do not increase the number of dwelling units authorized within the development by more than five percent or five dwelling units, whichever is less.

(c) The Board of Aldermen shall issue a special exception to the CAPS requirement to an applicant whose application for approval of a conditional or special use permit covers property within a planned unit development or master plan project that was approved prior to the effective date of this ordinance, if the Board of Aldermen finds, after an evidentiary hearing, that the applicant has (1) applied to the School District for a CAPS and the application has been denied, (2) in good faith made substantial expenditures or incurred substantial binding obligations in reasonable reliance on the previously obtained planned unit development or master plan approval, and (3) would be unreasonably prejudiced if development in accordance with the previously approved development or plan is delayed due to the provisions of this ordinance. In deciding whether these findings can be made, the Board of Aldermen shall consider the following, among other relevant factors:

(1) Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities which were designed to serve or to be paid for in part by the development of portions of the planned unit development or master planned project that have not yet been approved for construction;

(2) Whether the developer has installed streets, utilities, or other facilities or expended substantial sums in the planning and preparation for installation of such facilities that directly benefit other properties outside the development in question or the general public;

(3) Whether the developer has donated land to the School District for the construction of school facilities or otherwise dedicated land or made improvements deemed to benefit the School District and its public school system;

(4) Whether the developer has had development approval for a substantial amount of time and has in good faith worked to timely implement the plan in reasonable reliance on the previously obtained approval;

(5) The duration of the delay that will occur until public school facilities are improved or exist to such an extent that a CAPS can be issued for the project, and the effect of such delay on the development and the developer.

(d) The decision of the Board of Aldermen involving a special exception application under subsection (c) is subject to review by the Orange County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after a written copy of the decision of the Board of Aldermen is delivered to the applicant and every other party who has filed a written request for such copy with the Clerk to the Board of Aldermen at the time of its hearing on the application for a special exception. The written copy of the decision of the Board of Aldermen may be delivered either by personal service or by certified mail, return receipt requested.

(e) The Mayor or any member temporarily acting as Mayor may, in his or her official capacity, administer oaths to witnesses in any hearing before the Board of Aldermen concerning a special exception.

#### **Section 15-88.6 Appeal of School District Denial of a CAPS.**

The applicant for a CAPS which is denied by the School District may, within 30 days of the date of the denial, appeal the denial to the Board of Aldermen. Any such appeal shall be heard by the Board of Aldermen at an evidentiary hearing before it. At this hearing the School District will present its reasons for the denial of the CAPS and the evidence it relied on in denying the CAPS. The applicant appealing the denial may present its reasons why the CAPS application should have, in its view, been approved and the evidentiary basis it contends supports approval. The Board of Aldermen may (1) affirm the decision of the School District, (2) remand to the School District for further proceedings in the event evidence is presented at the hearing before the Board of Aldermen not brought before the School District, or (3) issue a CAPS. The Board of Aldermen will only issue a CAPS if it finds that the CAPS should have been issued by the School District as prescribed in the Memorandum of Understanding among the School District, Orange County and the towns of Carrboro and Chapel Hill. A decision of the Board of Aldermen affirming the School District may be appealed by the applicant for a CAPS by proceedings in the nature of certiorari and as prescribed for an appeal under section 15-88.5 of this part.

**Section 15-88.7 Information Required From Applicants.**

The applicant for a CAPS shall submit to the School District all information reasonably deemed necessary by the School District to determine whether a CAPS should be issued under the provision of the Memorandum of Understanding. An applicant for a CAPS special exception or an applicant appealing a CAPS denial by the School District shall submit to the Board of Aldermen all information reasonably deemed necessary by the Board of Aldermen to determine whether a special exception should be granted as provided in Section 15-88.5 or for the hearing of an appeal of a School District denial of a CAPS as provided in Section 15-88.6. A copy of a request for a CAPS special exception or of an appeal of a School District denial of a CAPS shall be served on the superintendent of the School District. Service may be made by personal delivery or certified mail, return receipt requested.

**Section 15-89 through 15-90 Reserved.**

## Appendix A

### INFORMATION REQUIRED WITH APPLICATIONS

#### **A-1. In General.**

(a) As provided in Section 15-49, it is presumed that all of the information listed in this appendix must be submitted with an application for a zoning, sign, special use, or conditional use permit to enable the permit-issuing authority to determine whether the development, if completed as proposed, will comply with all the requirements of Chapter 15. As set forth in Section 15-92, applications for variances are subject to the same provisions. However, the permit-issuing authority may require more information or accept as sufficient less information according to the circumstances of the particular case. A developer who believes information presumptively required by this appendix is unnecessary shall contact the planning staff for an interpretation.

(b) As also provided in Section 15-49, the administrator shall develop application processes, including standard forms, to simplify and expedite applications for simple development that do not require the full range of information called for in this appendix. In particular, developers seeking only permission to construct single-family houses or duplexes or to construct new or modify existing signs should contact the administrator for standard forms.

#### **A-2. Written Applications.**

Every applicant for a variance or a zoning, sign, special use or conditional use permit shall complete a written application containing at least the following information:

- (1) The name, address, and phone number of the applicant.
- (2) If the applicant is not the owner of the property in question, (i) the name, address, and phone number of the owner, and (ii) the legal relationship of the applicant to the owner that entitles the applicant to make application.
- (3) The date of the application.
- (4) Identification of the particular permit sought.
- (5) A succinct statement of the nature of the development proposed under the permit or the nature of the variance.
- (6) Identification of the property in question by street address and tax map reference.
- (7) The zoning district within which the property lies.

- (8) The number of square feet in the lot where the development is to take place.
- (9) The gross floor area of all existing or proposed buildings located on the lot where the development is to take place.
- (10) If the proposed development is a multi-family residential development, the number of one, two, three, or four bedroom dwelling units proposed for consideration.

### **A-3. Development Site Plans.**

Subject to Section A-1 of this appendix, every application for a variance or a zoning, sign, special use, or conditional use permit shall contain plans that locate the development site and graphically demonstrate existing and proposed natural, man-made, and legal features on and near the site in question, all in conformity with Section A-4 through A-6 of this appendix.

### **A-4 Graphic Materials Required for Plans**

(a) The plans shall include a location map that shows the location of the project in the broad context of the town or planning jurisdiction. This location map may be drawn on the development site plans or it may be furnished separately using reduced copies of maps of the Carrboro planning jurisdiction available at the planning department.

(b) Development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Very large developments may require that plans show the development in sections to accomplish this objective without resort to plans that are so large as to be cumbersome, or the objective may be accomplished by using different plans or plans drawn to different scales to illustrate different features. In all cases, the permit-issuing authority shall make the final determination whether the plans submitted are drawn to the appropriate scale, but the applicant for a conditional or special use permit rely in the first instance on the recommendations of the administration.

(c) Development site plans should show on the first page the following information:

- (1) Name of applicant
- (2) Name of development (if any)
- (3) North arrow
- (4) Legend
- (5) Scale

(d) All of the features required to be shown on plans by Sections A-5 and A-6 may be included on one set of plans, so long as the features are distinctly discernible.

**A-5. Existing Natural, Man-Made and Legal Features.**

(a) Development site plans shall show all existing natural, man-made, and legal features on the lot where the development is to take place, including but not limited to those listed below. In addition, the plans shall also show those features indicated below by an asterisk (\*) that are located within fifty feet in any direction of the lot where the development is to take place, and shall specify (by reference to the Table of Permissible Uses or otherwise) the use made of adjoining properties.

(b) *Existing natural features:*

- (1) Tree line of wooded areas.
- (2) The location and sizes of all trees greater than eighteen inches in diameter, clearly illustrating which of these trees are to be retained in accordance with Section 15-316, and which are to be removed, along with a written justification for the need to remove any large or rare species trees protected by the provisions of Article XIX, and description of the extent of the hardship that would occur if such removal were not permitted to occur. **(AMENDED 03/21/89)**
- (3) Orchards or other agricultural groves by common or scientific name.
- \* (4) Streams, ponds, drainage ditches, swamps, boundaries of floodways and floodplains.
- (5) (If the proposed development is a subdivision or mobile home park of more than fifty lots or if more than five acres of land are to be developed), base flood elevation data (See Article XVI, Part I). **(AMENDED 4/21/87; REPEALED 1/16/07).**
- \* (6) Contour lines (shown as dotted lines) with no larger than two foot contour intervals. (As indicated in Subsection A-6(b)(17), proposed contour lines shall be shown as solid lines.)

(c) *Existing man-made features.*

- \* (1) Vehicle accommodation areas (including parking areas, loading areas and circulation areas, see Section 15- 290), all designated by surface material and showing the layout of existing parking spaces and direction of travel lanes, aisles, or driveways.
- (2) Streets, private roads, sidewalks, and other walkways, all designated by surface material.

- (3) Curbs and gutters, curb inlets and curb cuts, and drainage grates.
  - (4) Other storm water or drainage facilities, including manholes, pipes, and drainage ditches.
  - (5) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television.
  - (6) Above ground utility lines and other utility facilities.
  - \* (7) Fire hydrants.
  - \* (8) Buildings, structures and signs (including dimensions of each).
  - (9) Location of exterior light fixtures.
  - \* (10) Location of dumpsters.
- (d) *Existing legal features.*
- (1) The zoning of the property, including zoning district lines where applicable.
  - (2) Property lines (with dimensions identified).
  - (3) Street right-of-way lines.
  - (4) Utility or other easement lines.

**A-6. Proposed Changes in Existing Features or New Features (AMENDED 6/20/06).**

(a) Development site plans shall show proposed changes in (i) existing natural features [see A-5(b)], (ii) existing man-made features [see A-5(c)], and (iii) existing legal features [see A- 5(d)].

(b) Development site plans shall also show proposed new legal features (especially new property lines, street right-of-way lines, and utility and other easements), as well as proposed man-made features, including, but not limited to, the following:

- (1) The number of square feet in every lot created by a new subdivision.
- (2) Lot dimensions, including lot widths measured in accordance with Section 15-183.

- (3) The location and dimensions of all buildings and freestanding signs on the lot, as well as the distances all buildings and freestanding signs are set back from property lines, streets or street right-of-way lines (see Section 15-184).
- (4) Principal side(s) building elevations for typical units of new buildings or exterior remodelings of existing buildings, showing building heights (see Section 15-185) and proposed wall sign or window sign area.
- (5) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures. **(AMENDED 4/21/87; REPEALED 1/16/07)**
- (6) Elevation in relation to mean sea level to which any non-residential structure will be floodproofed. **(AMENDED 4/21/87; REPEALED 1/16/07)**
- (7) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. **(AMENDED 4/21/87; REPEALED 1/16/07)**
- (8) The location and dimensions of all recreational areas provided in accordance with Article XIII, with each area designated as to type of use. **(AMENDED 4/21/87)**
- (9) Areas intended to remain as usable open space (Section 15-198) or designated buffer areas (Section 15-265). The plans shall clearly indicate whether such areas are intended to be offered for dedication to public use or shall remain privately owned. **(AMENDED 4/21/87)**
- (10) Streets, labeled by classification (see Section 15-210) and street name showing whether curb and gutter or shoulders and swales are to be provided and indicating street paving widths. Private roads in subdivisions shall also be shown and clearly labeled as such. **(AMENDED 4/21/87)**
- (11) Curb and gutters, curb inlets and curb cuts, drainage grates.
- (12) Other storm water or drainage facilities, including manholes, pipes, drainage ditches, retention ponds, etc.
- (13) Sidewalks and walkways, showing widths and surface material.

- (14) Bridges.
- (15) Outdoor illumination, including the following information:  
**(REWRITTEN 4/20/10)**
  - a. Plans showing the location, type, and height of luminaires including both building and ground fixtures. The plan shall include a point-by-point footcandle array in a printout format indicating the location and aiming of illuminating devices, and indicate compliance with the maximum maintained footcandles required by Section 15-242.4 of this chapter.
  - b. A description of the luminaires, including lamps, supports, reflectors, raised foundations, poles or other supports and shielding devices, which may be provided as electric utility catalogue illustrations, sheets and/or drawings, and product specifications from the manufacturer.
  - c. Photometric data, such as that furnished by the manufacturer, showing the angle of light emission; and
  - d. A demonstration or showing that the applicant has attempted to reduce energy consumption through the selection of energy efficient luminaires, timers, or other methods (such as fixtures that automatically change wattage output). **(AMENDED 05/25/09; REWRITTEN 4/20/10)**
- (16) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television. Water and sewer pipe line signs shall be labeled.
- (17) Above ground utility lines and other facilities.
- (18) Fire hydrants.
- (19) Dumpsters.
- (20) New contour lines resulting from earth movement (shown as solid lines) with no larger than two foot contour intervals (existing lines should be shown as dotted lines).
- (21) Scale drawings of all signs requiring permits pursuant to Article XVII, together with an indication of the location and dimensions of all such signs.

- (22) Vehicle accommodation areas (including parking areas, loading areas, and circulation areas, see Section 15-290), all designated by surface material and showing the dimensions and layout of proposed parking spaces and the dimensions and direction of travel lanes, aisles, and driveways.
- (23) Proposed plantings or construction of other devices to comply with the screening requirements of Article XIX, Part I, as well as proposed plantings of trees to comply with the shading requirements of Article XIX, Part II. Plans shall label shrubbery by common or scientific name, show the distance between plants and indicate the height at the time of planting and expected mature height and width. Plans shall label trees by common or scientific name, show the circles of the mature crowns (major trees shall be drawn at diameter = 30'; dwarf or decorative trees shall be drawn at their actual mature crown), and indicate the height at the time of planting.
- (24) A Tree Protection Plan, will be completed and stamped by a Certified Arborist of Landscape Architect, illustrating the methods proposed to be used to protect, during construction, the trees that are required to be protected under the provisions of Chapter XIX including specifications as to how the grade, drainage, and aeration will be maintained around the trees. The location of all rare and specimen trees to be retained on the site that will not be within the area to be disturbed by construction activities near a building site, or near roads within the development shall also be shown on the plan, along with a note stating that these trees will not be within the area to be disturbed by construction activities. The Administrator may recommend that applicants consult with experts in landscape architecture or forestry about appropriate tree protection methods for the particular conditions and species in question, and request that their contractors review two videotapes on tree protection during construction developed by the International Society of Arboriculture, entitled "Effect of Building Construction on Trees in Wooded Lots" and "Avoidance of Construction Damage to Trees on Wooded Lots" that are on file in the Public Works Department. **(AMENDED 03/21/89; 06/24/14)**
- (25) Plan for Downtown Architectural Standards to comply with Section 15-178 and including, but not limited to, elevation drawings/illustrations of existing and neighboring property building facades.
- (26) Plans showing the maximum extent to which all buildings taller than 40 feet will cast a shadow on June 21<sup>st</sup> and December 21<sup>st</sup>. **(AMENDED 03/25/14)**

**A-7. Documents and Written Information in Addition to Plans.**

In additional to the written application and the plans, whenever the nature of the proposed development makes information or documents such as the following relevant, such documents or information shall be provided. The following is a representation list of the types of information or documents that may be requested: **(AMENDED 11/23/10)**.

- (1) Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.
- (2) Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development, as set forth in Article XV, and that all necessary easements have been provided.
- (3) Certifications required under Part I of Article XVI.  
**(AMENDED 4/21/87; REPEALED 1/16/07; AMENDED 11/23/10)**
- (4) **RESERVED. (AMENDED 4/21/87; REPEALED 1/16/07; REPEALED 11/23/10)**
- (5) Detailed description of play apparatus to be provided in miniparks.
- (6) Legal documentation establishing homeowners' associations or other legal entities responsible for control over required common areas and facilities.
- (7) Bonds, letters of credit, or other surety devices.
- (8) Stamped envelopes containing the names and addresses of all those to whom notice of a public hearing must be sent to comply with Section 15-102 or Section 15-52.
- (9) Complete documentation justifying any requested deviation from specific requirements established by this chapter as presumptively satisfying design standards.
- (10) Written evidence of permission to use satellite parking spaces under the control of a person other than the developer when such spaces are allowed pursuant to Section 15-298.
- (11) Written evidence of good faith efforts to acquire satellite parking under the circumstances set forth in Section 15-299.

- (12) Verification that 4.000 classification uses will meet the performance standards set forth in Article XI. Such verification shall be made by a licensed engineer or other qualified expert unless it is utterly apparent from the nature of the proposed development that such expert verification is unnecessary.
- (13) Time schedules for the completion of phases in staged development, as required by Section 15-61.
- (14) The environment impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.

**A-8. Number of Copies of Plans and Documents.**

With respect to all plans and other documents required by this appendix, the developer shall submit the number of copies (not to exceed ten) that the administrator deems necessary to expedite the review process and to provide necessary permanent records.

## **ARTICLE XX**

### **AMENDMENTS**

#### **Section 15-320 Amendments in General**

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

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

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

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

#### **Section 15-321 Initiation of Amendments**

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

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

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

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

(d) Upon receipt of a proposed ordinance as provided in subsection (a), the Board may establish a date for a public hearing on it. Upon receipt of a petition for an ordinance amendment as provided in subsection (b), the Board may summarily deny the petition or set a date for a public hearing on the requested amendment and order the attorney, in consultation with the planning staff, to draft an appropriate ordinance.

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

(a) If the Board sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved, and may refer the amendment to the transportation advisory board if the amendment involves community transportation issues, 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. **(AMENDED 09/19/95, REWRITTEN 02/25/14, AMENDED 06/25/19).**

(b) The planning board shall advise and comment on whether the proposed amendment is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plans officially adopted by the Board of Aldermen. The planning board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the planning board. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Board of Aldermen may proceed in its consideration of the amendment without the planning board report. **(AMENDED 10/24/06)**

(c) A comment by the planning board that a proposed amendment is inconsistent with the Land Use Plan, Thoroughfare Plan or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen, and the Board of Aldermen is not bound by the recommendations of the planning board. **(AMENDED 10/24/06)**

(d) A member of the planning board and any other advisory committee that provides direct advice to the Board of Aldermen (i.e. it does not report to the planning board) shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. **(AMENDED 10/24/06)**

### **Section 15-323 Hearing Required: Notice**

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

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

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

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

which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Orange County property tax listing for the affected property, shall be notified according to the provisions of subsection (c) of this section. **(AMENDED 10/24/06)**

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

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

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

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

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

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

provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. **(AMENDED 11/24/09)**

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

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

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

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

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

(d) Prior to adopting or rejecting any zoning amendment, the Board shall adopt one of the following statements which shall not be subject to judicial review **(AMENDED 2/6/2018)**:

- (1) A statement approving the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
- (2) A statement rejecting the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest.
- (3) A statement approving the zoning amendment and containing at least all of the following:
  - a. A declaration that the approval is also deemed an amendment to the comprehensive plan. The governing board shall not require any additional request or application for amendment to

- the comprehensive plan.
- b. An explanation of the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community.
  - c. Why the action was reasonable and in the public interest.
- (4) The Board retains the right to find a zoning amendment to be consistent with any duly adopted plan, but to deny the zoning amendment request
  - (5) For the purposes of this section, "comprehensive plan" includes a unified development ordinance and any other officially adopted plan that is applicable.
- (e) A Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (See also Carrboro Town Code Section 2-35).

#### **Section 15-325 Ultimate Issue Before Board on Amendments**

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

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

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

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 this Ordinance to the Clerk of the Board of Aldermen at least two (2) business days prior to the proposed vote on such change, the Clerk to the Board shall deliver such written statement to the

Board. If the proposed change is the subject of a quasi-judicial proceeding under North Carolina General Statutes Section 160A-388 (such as conditional use rezoning in which the legislative rezoning is accompanied by or followed by a quasi-judicial conditional use permit process), 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 Board shall not disqualify any member of the Board from voting. Written statements submitted in connection with a quasi-judicial proceeding may be admitted into evidence at such a proceeding if the Board determines that such statements are admissible 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).