



# TOWN OF CARRBORO

## PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

7:30 P.M.

REMOTE MEETING\*

## A G E N D A

THURSDAY, JUNE 4, 2020

Item	Topic/Action	Person/Agency	Time (Approx)
<b>I.</b>	<b>WELCOME &amp; INTRODUCTIONS</b>	Chair	7:30
<b>II.</b>	<b>JOINT REVIEW ITEMS</b>		
	A) Draft LUO Text Amendments to Establish Climate Action and Environmental Sustainability Commission	Staff/Planning Board/EAB/AC	7:40
	B) Draft LUO Text Amendments to Establish Regulations for Small and Micro-Wireless Facilities	Staff/Planning Board & AC	8:10
<b>III.</b>	<b>APPROVAL OF MINUTES</b>		
	A) May 7, 2020	Chair/Planning Board	8:30
<b>IV.</b>	<b>OTHER MATTERS</b>		
	A) Draft LUO Text Amendments to Establish Climate Action and Environmental Sustainability Commission	Chair/Planning Board	8:35
	B) Draft LUO Text Amendments to Establish Regulations for Small and Micro-Wireless Facilities	Chair/Planning Board	9:00
<b>V.</b>	<b>ADJOURNMENT</b>	Chair	9:30

*\*To view the advisory board meeting, please email Tina Moon at [cmoon@townofcarrboro.org](mailto:cmoon@townofcarrboro.org) to receive an invitation to view the meeting. If you wish to make public comment, at the time of the public comment, the staff person will be able to allow speakers to remotely enter the meeting one-by-one to comment. Please send any written statement or materials to the same email provided above. Requests to remotely attend the meeting shall be made within 24 hours of the meeting start time. The requester should also specify if they wish to make any comments in the email. All written statements and materials will be forwarded to the advisory board members.*

**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.

**JOINT ADVISORY BOARDS**

**AGENDA ITEM ABSTRACT**

ITEM NO. \_\_\_\_\_

MEETING DATE: June 4, 2020

**TITLE: Land Use Ordinance Amendments to Establish a Climate Action and Environmental Sustainability Commission**

<b>DEPARTMENT: Planning</b>	<b>PUBLIC HEARING: YES ___ NO_X_</b>
<b>ATTACHMENTS:</b> A Recommendation Template B Draft LUO Ordinance C Comments from EAB	<b>FOR INFORMATION CONTACT:</b> Christina Moon – 918-7325 Patricia McGuire -- 918-7327

**PURPOSE**

The purpose of this item is for advisory board members to consider amendments to the Land Use Ordinance that would establish a new Climate Action and Environmental Sustainability Commission as an update to the existing Environmental Advisory Board. The Town Council has set a public hearing for June 16, 2020 and has requested advisory board review prior to the hearing.

**INFORMATION**

During the March joint review meeting and again in April/May, staff discussed possible options to shift some of the development review duties of the Environmental Advisory Board to the Planning Board and Appearance Commission to advance implementation of the Town's climate action plans. While all of the boards noted the importance of advancing the climate action plans, some members of the Planning Board and Appearance Commission expressed reservations with the proposal to take on certain aspects of environmental review historically addressed by the EAB.

A draft ordinance has been prepared that would establish a new Climate Action and Environmental Sustainability Commission (CAESC). The new name emphasizes the role the commission to serve as the advisory board tasked with leading the Town's efforts toward climate action planning, and a new provision under 15-45.2(a) articulates this charge. The existing duties relating to development review would remain with the CAESC. Planning staff would facilitate the discussion of development applications and amendments, when required, to allow the Environmental Sustainability Coordinator to focus on climate action

The existing EAB would sunset; interested candidates would apply for appointment to the new commission. The nine-member CAESC would ensure sufficient membership for broad expertise in environmental topics relating to climate action and sustainability as well as development review. A requirement for at least two members to have special expertise related to climate action implementation such as renewable energy use or energy efficiency in building design and/or construction, use or promotion of alternative transportation, and/or community

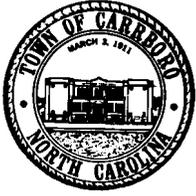
engagement/grass-roots organizing related to climate action or similar environmental initiatives, is included.

The Appearance Commission would continue to serve as the Town's Tree Board under the Tree City USA standards, with some duties shared at times and as appropriate with staff and other advisory boards and commissions.

A public hearing has been set for June 16, 2020. The Town Council must receive public comments before adopting amendments to the Land Use Ordinance. Orange County and Planning Board are also needed. The Appearance Commission and Environmental Advisory Board have also been identified for referral based on their purview.

### **RECOMMENDATION**

Staff recommends that advisory boards review the draft ordinance (*Attachment B*) and consider adopting a recommendation for inclusion in the public hearing materials for June 16<sup>th</sup>. A recommendation template has been provided for the boards to use (*Attachment A*).



# TOWN OF CARRBORO

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*301 West Main Street, Carrboro, North Carolina 27510*

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## R E C O M M E N D A T I O N

**THURSDAY, JUNE 4, 2020**

### **Land Use Ordinance Text Amendment to Establish a Climate Action and Environmental Sustainability Commission**

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

**VOTE:**

AYES:

NOES:

ABSTENTIONS:

ABSENT/EXCUSED:

Associated Findings

By a unanimous show of hands, the \_\_\_\_\_ membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

The \_\_\_\_\_ of the Town of Carrboro finds that the proposed text amendment \_\_\_\_\_ consistent with Carrboro Vision2020 in the support of environmental protection and promotion, specifically Provision 5.22 to set policies to protect creeks, streams ponds and lakes, and Provision 5.31 to promote energy conservation, alternative and renewal energy, as well as the Community Climate Action Plan which speaks to the role of an advisory board to help guide implementation.

Furthermore, the \_\_\_\_\_ of the Town of Carrboro finds that the proposed text amendment promotes efficient and effective government which is in the public interest.

**VOTE:**

AYES:

NOES:

ABSTENTIONS:

ABSENT/EXCUSED:

\_\_\_\_\_  
(Chair)

\_\_\_\_\_  
(Date)

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO  
ESTABLISH A CLIMATE ACTION AND ENVIRONMENTAL SUSTAINABILITY  
COMMISSION

\*DRAFT 5-22-2020\*

THE CARRBORO TOWN COUNCIL ORDAINS:

**Section 1.** Article II, Administration is rewritten to read as follows:

**PART VI. CLIMATE ACTION AND ENVIRONMENTAL SUSTAINABILITY  
COMMISSION**

**Section 15-45** Appointment and Terms of Climate Action and Environmental Sustainability Commission

(a) There shall be a Climate Action and Environmental Sustainability Commission (CAESC), which shall consist of nine members appointed by the Town Council. All members of the CAESC shall either reside, own property, or operate a business within the town's planning jurisdiction. At least two members will have special expertise related to climate action implementation such as renewable energy use or energy efficiency in building design and/or construction, reducing motor vehicle use, or community engagement/grass-roots organizing related to climate action or similar environmental initiatives.

(b) CAESC members shall be appointed for three year staggered terms, but members may continue to serve until their successors have been appointed. The initial terms of all members shall expire on January 31, 2021. Effective February 1, 2021, four members shall be appointed for three year terms, three members for two year terms, and two members for one year terms. Vacancies shall be filled for the unexpired terms only.

(c) Members may be removed as follows:

- (1) The chair shall file or caused to be filed with the town clerk an attendance report after each meeting identifying those members who are present or absent.
- (2) Unless the chair waives the requirement, members shall be removed if they are absent for three consecutive meetings or if they miss more than 30% of the meetings during a twelve-month period. The town clerk shall notify the chair in writing as soon as a member becomes subject to removal under this section. The chair will have ten days after receipt of such notice to waive the removal. If the chair fails to notify the town clerk in writing within ten days after receipt of such notice that the automatic removal requirements

should be waived, the town clerk will send the removal notice to the member. This removal shall be effective on the date of such notice.

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

**Section 15-45.1 Organization and Meetings of CAESC**

(a) The CAESC shall establish a regular meeting schedule. All meetings shall be open to the public and notification of such meetings shall conform to the requirements of the Open Meetings Law.

(b) A quorum shall be present for the CAESC to take official action, and all actions shall be taken by majority vote. A quorum shall consist of five members if all seats on the CAESC are filled and four members if there are one or more vacancies on the board.

(c) The CAESC shall select one of its members to serve as chair and one member to serve as vice-chair. These officers will be chosen annually at the CAESC's first meeting in March and shall serve for terms of one year unless their terms of appointment to the CAESC sooner expire. Vacancies shall be filled for the unexpired term only. A member may be selected to serve as chair for not more than two consecutive full one-year terms. The chair and vice-chair may take part in all deliberations and vote on all issues. **(AMENDED 01/27/09)**

**Section 15-45.2 Powers and Duties of the CAESC** **(REPEALED 5/11/99)** **(AMENDED 02/25/14)** **(AMENDED 10/24/17)**

The Climate Action and Environmental Sustainability Commission may:

- (a) Advise the Town Council on the implementation of the Community Climate Action Plan, Energy and Climate Protection Plan, and related and subsequent plans.
- (b) Advise the Town Council on policies, ordinances, and administrative procedures regarding environmental protection and the conservation of natural resources. The areas of review for the CAESC include new development, solid waste, air quality, climate protection and resilience, energy conservation, solar energy, groundwater, natural resources, and other areas.
- (c) Provide recommendations for green building and low impact development as part of new development and redevelopment, including site planning and design, energy efficiency and renewable energy, water efficiency, materials efficiency and waste reduction, indoor environmental quality, and the minimization of pollution.
- (d) Take any other action authorized by this chapter or any other ordinance or resolution of the Town Council.

**Section 2.** Section 15-48.1(c), of the Carrboro Land Use Ordinance, Concept Plan Review Procedures Prior to Submitting Applications, shall be amended to reflect the replacement of the Environmental Advisory Board with the Climate Action and Environmental Sustainability

Commission to the list of advisory boards that may participate in the Joint Advisory Board meeting for the review of concept plans.

**Section 3.** Section 15-50(c) of the Carrboro Land Use Ordinance is amended to include the Climate Action and Environmental Sustainability Commission on the list of Boards and Commissions which are identified as having designated members participate in an on-site walkabout.

**Section 4.** Section 15-57, Recommendations on Conditional Use Permits of the Carrboro Land Use Ordinance is modified to reflect the replacement of the Environmental Advisory Board with the Climate Action and Environmental Sustainability Commission.

**Section 5.** Subsection 15-56 (c), Recommendations on Special use permits is amended by replacing the Environmental Advisory Board with the Climate Action and Environmental Sustainability Commission.

**Section 6.** Subsection 15-322(a), Planning Board and other Advisory Consideration of Proposed Amendments, is modified by replacing the Environmental Advisory Board with the Climate Action Environmental Sustainability Commission.

**Section 7.** All provisions of any Town ordinance or resolution in conflict with this ordinance are repealed, and this ordinance is effective upon adoption.

**ADVISORY BOARDS**

ITEM NO. \_\_\_\_\_

**AGENDA ITEM ABSTRACT****MEETING DATE: June 4, 2020****TITLE: Land Use Ordinance Amendments to Establish Regulations for Small and Micro-Wireless Facilities**

<b>DEPARTMENT: Planning</b>	<b>PUBLIC HEARING: YES ___ NO_X_</b>
<b>ATTACHMENTS:</b> A. Recommendation Template B. Draft Ordinance C. S.L. 2017-159 (HB 310)	<b>FOR INFORMATION CONTACT:</b> Christina Moon – 918-7325 Marty Roupe – 918-7333 Patricia McGuire – 918-7327

**PURPOSE**

The purpose of this item is to consider revisions to the Land Use Ordinance to conform with state legislation relating to small wireless infrastructure. A public hearing date has been set for June 16, 2010. Planning Board and Appearance Commission review have been requested prior to the public hearing.

**INFORMATION**

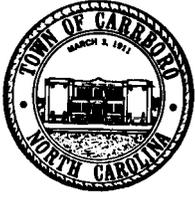
During the 2017 Session, the North Carolina legislature adopted S.L. 2017-159 (HB 310) which establishes new a regulatory framework for the installation of small and micro-wireless facilities, particularly within public rights-of-way, to support 5G wireless infrastructure. (*Attachment C*).

A draft ordinance has been prepared which, if adopted, would add new definitions to the LUO, and establish a new use classification 18.500 (small and micro-wireless facilities) permitted in all districts with a zoning permit (*Attachment B*). The supplementary use regulations in Section 15-176 would be amended to include standards for small wireless facilities under a new subsection 15-176(d) and update the existing standards for towers and antennas (use classification 18.200) to expand the definition of a substantial modification, a change required to comport with the legislation. Other modifications to the LUO speak to the process and timeline for reviewing applications. Explanatory footnotes reference the provisions in the state legislative that allow/require the specific standards have been included in the draft ordinance; these will be removed before adoption.

The Town Council must receive public comment before adopting amendments to the LUO; Planning Board and Orange County review is also needed, and the Appearance Commission has been identified as the matter relates to its purview.

**RECOMMENDATION**

Staff recommends that Advisory Boards review the draft ordinance and adopt a recommendation pertaining to the proposed amendment for inclusion in the June 16<sup>th</sup> public hearing materials.



# TOWN OF CARRBORO

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**301 West Main Street, Carrboro, North Carolina 27510**

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## R E C O M M E N D A T I O N

**THURSDAY, JUNE 4, 2020**

### **Land Use Ordinance Text Amendment to Establish Regulations for Small and Micro-Wireless Facilities**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the \_\_\_\_\_ of the Town of Carrboro recommends that the Town Council \_\_\_\_\_ the draft ordinance.

**VOTE:**

AYES: ( )

NOES: ( )

ABSTENTIONS: ( )

ABSENT/EXCUSED: ( )

**Associated Findings**

By a unanimous show of hands, the \_\_\_\_\_ membership indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the \_\_\_\_\_ of the Town of Carrboro finds the proposed text amendment, which will align the provisions of the Land Use Ordinance dealing with towers and antennas to recent state legislation \_\_\_\_\_ consistent with the provisions in section 15-2 which specify the authority granted to the Town through state enabling legislation.

Furthermore, the \_\_\_\_\_ of the Town of Carrboro finds the proposed text amendment is reasonable and in the public interest because the Town seeks to remain consistent with its adopted plans or policies.

**VOTE:**

AYES: ( )

NOES: ( )

ABSTENTIONS: ( )

ABSENT/EXCUSED: ( )

\_\_\_\_\_  
(Chair)

\_\_\_\_\_  
(Date)

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO  
ESTABLISH REGULATIONS FOR SMALL AND MICRO-WIRELESS FACILITIES

\*\*DRAFT 5-11-2020\*\*

THE CARRBORO TOWN COUNCIL ORDAINS:

**Section 1.** Section 15-15 (Basic Definitions and Interpretations) of the Carrboro Land Use Ordinance is amended by adding fifteen new definitions and modifying two existing definitions, “public utility service complex” and “tower,” as shown below, and by renumbering the entire section in alphabetical order.<sup>1</sup>

**ANTENNA ELEMENT REPLACEMENT.** The replacement of any part or all of an antenna or antenna array with a model of the same manufacturer and model type or close specification.

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

**BASE STATION.** A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

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

**COMMUNICATIONS FACILITY.** The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

**COMMUNICATIONS SERVICE.** Cable service as defined in 47 U.S.C. § 522(6) (The one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service), and information service as defined in 47 U.S.C. § 153(24). (The term “information service” means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service), and telecommunications service as defined in 47 U.S.C. § 153(53) (The term “telecommunications service” means the offering of telecommunications for a fee directly to the public.)

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<sup>1</sup> All of the definitions are from N.C. Gen. Stat. § 160A-400.51 (As of Aug. 1, 2021 160D-931).

**COMMUNICATIONS SERVICE PROVIDER.** A cable operator as defined in “Communications Service” and 47 U.S.C. § 522(5); a provider of information service, as defined in “Communications Service” and 47 U.S.C. § 153(24); a telecommunications carrier, as defined in “Communications Service” and in 47 U.S.C. § 153(51); or a wireless provider.

**ELIGIBLE FACILITIES REQUEST.** A request for a modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

**EQUIPMENT COMPOUND.** An area containing accessory equipment surrounding or near the base of a wireless support structure within which a wireless facility is located.

**MICRO WIRELESS FACILITY.** (See Section 15-176). A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

**SMALL WIRELESS FACILITY.** (See Section 15-176). A wireless facility that meets both of the following qualifications:

- (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
- (2) All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. (For purposes of this subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.)

**SUBSTANTIAL MODIFICATION.** (See Section 15-176). The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below:

- (1) Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- (2) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- (3) Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

**TOWN RIGHT-OF-WAY.** A right-of-way owned, leased, or operated by a town, including any public street or alley that is not a part of the State highway system.

**TOWN UTILITY POLE.** A pole owned by a town in the town right-of-way that provides lighting, traffic control, or a similar function.

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

- (1) The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- (2) Wireline backhaul facilities.
- (3) Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (4) Amateur radio antennas. See also, Section 15-150(5) Towers and antennas constructed on residential property and G.S. § 160A-400.51.

**WIRELESS SUPPORT STRUCTURE.** A new or existing structure, such as a monopole, lattice tower, or guyed tower, that is designed to support or capable of supporting wireless telecommunications facilities, radio or TV antennas. A utility pole is not a wireless support structure.

**PUBLIC UTILITY SERVICE COMPLEX.** A development consisting of a combination of offices and one more of the following types of uses, all of which are operated or conducted by a “public utility” as that term is defined in Section 62.3 of the N.C. General Statutes: motor vehicle repair (use classification 9.400), parking or storage (use classification 10.300), and towers and wireless support structures (use classification 18.000). (AMENDED 10/25/83)

**TOWER.** A structure whose principal function is to support one or more antennas. See also Wireless Support Structure. (AMMENDED 02/18/97)

**Section 2.** Section 15-146, (Table of Permissible Uses) is amended by expanding the description of the subcategories of use classification 18.000 “Towers and Related Structures,” to read as follows:

### **18.000 Towers and Wireless Support Structures**

18.100 Towers and antennas fifty feet tall or less.

18.200 Towers and antennas that exceed 50 feet in height; substantial modifications, that are not regarded as accessory to residential users under 15-150(c)(5).

18.300 Antennas exceeding 50 feet in height attached to wireless support structures other than towers; substantial modifications (other than accessory uses under 15-150(c)(5)).

18.400 Publicly-owned towers, wireless support structures and antennas of all sizes that are used in the provision of public safety services.

**Section 3.** Section 15-146, Section 15-146, (Table of Permissible Uses) is amended by adding a new use classification 18.500 “Small and Micro Wireless Facilities; with or without associated Utility Pole or Wireless Support Structures”<sup>2</sup> by adding the letter “Z” opposite this use classification under all zoning district columns to indicate that this use is permissible in all districts with a zoning permit as noted further in section 15-176 Towers, Antennas, and Wireless Facilities, including Small and Micro Wireless Facilities.

**Section 4.** Section 15-147, (Use of the Designations Z, S, C in the Table of Permissible Uses) is amended by adding a new subsection (t) to read as follows<sup>3</sup>:

(t) For use classification 18.500 small and micro wireless facilities; with or without associated utility pole or wireless support structures see Section 15-176(d) for application and development standards and Article II of Chapter 7 for encroachment agreements.

**Section 5.** Section 15-150(c)(5) is amended to modify the reference to the setback requirement from subsection 15-176(2) to subsection 15-176(b)(2).

**Section 6.** Section 15-176 Article XI (Supplementary Use Regulations) is rewritten to include small and micro wireless facilities, as follows:

**Section 15-176 Towers and Antennas, and Wireless Facilities including Small and Micro Wireless Facilities (AMENDED 02/18/97, REPEALED & AMENDED 11/19/13)**

(a) Towers and antennas, and wireless facilities are subject to the regulations outlined in this section, pursuant to the definition of each facility described in Article II of this chapter. The term “tower” includes wireless support structures.

In addition to other applicable provisions of this chapter, towers, antennas attached thereto that exceed 50 feet in height (use classification 18.200) shall be subject to the requirements in subsections (a), and (b) and (c) below. Additional standards applicable to small and micro-wireless facilities (use classification 18.500) are provided in subsection (d). **(AMENDED 11/19/13)**

- (1) A tower may not be located within 1,500 feet of another tower (measured in a straight line and not by street distance).
- (2) As set forth in subsection 15-184(q), the base of the tower shall be set back from a street right-of-way line and every lot boundary line a distance that is not less than the height of the tower.

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<sup>2</sup> G.S. § 160A-400.54; G.S. § 160A-55; G.S. § 160A-56.

<sup>3</sup> *Id.*

- (3) Lighting shall not exceed the Federal Aviation Administration (FAA) minimum if lighting is required by the FAA. To the extent allowed by the FAA, strobes shall not be used for nighttime lighting. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.
- (4) Towers and antennas shall be constructed and operated so as not to disturb or interfere with the use or operation on adjoining or nearby properties of radios, televisions, telephones, or similar equipment.
- (5) Commercial messages may not be displayed on any tower.
- (6) The output from the tower may not exceed federally approved levels for exposure to electronic magnetic force (EMF). The applicant shall be required to submit documentation with the application verifying compliance with this standard.
- (7) If the tower is up to 180 feet in height, the tower shall be engineered and constructed to accommodate at least one additional telecommunication user. If the tower exceeds 180 feet, the tower shall be engineered and constructed to accommodate at least two additional telecommunication users. Furthermore, the site plan must show locations for accessory buildings necessary to accommodate a minimum of two users, even if the tower is proposed for a single user.
- (8) The base of the tower and each guy anchor shall be surrounded by a fence or wall at least eight feet in height and constructed of material that cannot be easily climbed or penetrated, unless the tower and all guy wires are mounted entirely on a building at least eight feet in height.
- (9) The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a Type A screening. The site developer shall have the option of (i) providing the screening around the tower base and associated items individually, or (ii) providing the screening around the perimeter of the entire site.
- (10) Outdoor storage shall not be permissible on tower sites.
- (11) In addition to other information that must be submitted with the application, the application for a tower must contain the following information:
  - a. Identification of the intended user(s) of the tower.
  - b. Documentation provided by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user.
  - c. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant. Documentation may

include maps, letters from adjacent tower owners, or calculations. Facilities include other towers, or other buildings or structures.

- d. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated.
- (12) The recipient of a permit for a tower shall be required as a continuing condition on the validity of the permit, to submit to the Zoning Administrator by January 31st of each year documentation, including but not limited to an FCC license, that the tower is being utilized. Towers which are not used for a period of 6 months or more shall be removed by the owner within 90 days thereafter. A statement of financial responsibility and performance security shall be posted for each tower to guarantee compliance with this requirement.<sup>4</sup>
  - (13) In any residential zone, associated buildings or other buildings located on the same lot and owned or used by the applicant, its associates, or any co-users shall not be used as an employment center for any worker. This subsection does not prohibit the periodic maintenance or periodic monitoring of instruments and equipment.
  - (14) The tower shall be constructed with a grounding system that provides adequate protection from destruction or damage by lightning.
  - (15) **REPEALED (11/19/13)**
  - (16) In addition to the considerations for conditional or special use permits found in Section 15-54 of this ordinance, the approving bodies in determining whether a tower is in harmony with the area of a tower on the value of adjoining or abutting properties may consider the aesthetic effects of the tower as well as mitigating factors concerning aesthetics, and may disapprove a tower on the grounds that such aesthetic effects are unacceptable. Factors relevant to aesthetic effects are the protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites; the concentration of towers in the proposed areas; and whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive impact.
    - (b) A request for a modification of an existing cell tower, base station or wireless support structure that involves the collocation of new transmission equipment or the removal or replacement of transmission equipment but that does not substantially change the physical dimensions of the cell tower or base station shall be approved by the administrator as an insignificant deviation (see Section 15-64). For purposes of this section, a substantial change in physical dimensions would occur if: **(AMENDED 11/19/13)**

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<sup>4</sup> From FCC order.

- (1) The proposal is a “substantial modification” as defined in Article II of this chapter. Substantial modifications include<sup>5</sup>:
- a. The proposed change would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater (may exceed these size limits if necessary to avoid interference with existing antennas);
  - b. The proposed change would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable); or
  - c. The proposed change would enlarge the square footage of the existing equipment compound by more than 2,500 square; or
  - d. The proposed change would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
  - e. The proposed change would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

(2) (Reserved)

(c) The Town shall have 45 days<sup>6</sup> within which to determine the completeness of an application for a collocation or eligible facilities request, and then 45 days from the date that the application is determined to be complete within which to make its decision. An application is deemed to be complete 45 days after it is submitted unless the Town determines and notifies the applicant in writing within 45 days of submission, that (and how) the application is deficient. For other types of applications relating to wireless support structures, towers or substantial modifications, the Town shall have 90 days to determine if an application is complete and 150 days within which to decide, not including small and micro wireless facilities. **(AMENDED 11/19/13)**

(d) Small or micro wireless facilities (use classification 18.500), defined in Article II, and the height requirements in Table 1 and Table 2 below, are subject to the regulations outlined in this subsection.

Table 1. Height Requirements for Small Facilities in Public Rights-of-Way (Read top row left to right, then left-hand column.)

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<sup>5</sup> G.S. § 160A-400.51 (7b); § 160A-400.52. Construction of new wireless support structures or substantial modifications of wireless support structures (2013)

<sup>6</sup> FCC “shot clock”; § 160A-400.50. Purpose and compliance with federal law; § 160A-400.53 (a1);.

If a Small Wireless Facility is proposed in the following Zoning District(s):	New, modified or replacement utility power Height of Utility Pole	Small wireless facility above utility pole, wireless support structure or Town utility pole	Total Height
All	50 feet above ground level	10 feet	60 feet <sup>7</sup>
EXCEPTION for residential zoning districts where utilities are located underground. (The residential zoning districts are R-2, R-3, R-7.5, R-10, R-15, R-20, RR, R-SIR, R-SIR2, PUD, VMU, WR, HD, NPD <sup>8</sup> )	40 feet above ground level	10 feet	50 feet

Table 2. Height Requirements for Small Facilities outside of Public Rights-of-Way<sup>9</sup>

If a Small Wireless Facility is proposed in the following Zoning District (s)	New, modified or replacement utility power Height of Utility Pole	Small wireless facility above utility pole, wireless support structure or Tow utility pole	Total Height
B-1(c), B-1(g), B-2, B-3, B-3T, M-1, M-2, CT, O, ORMU	50 feet above ground level	10 feet	60 feet

- (1) Small wireless facilities may also be attached to existing structures including poles, provided that the height of the wireless support structure and antennae together increase the height of the existing structure by not more than ten (10) feet.
- (2) All small and micro wireless facilities shall meet the provisions of 15-176(a)(10), (11), (12) and (14), above.
- (3) All small wireless facilities shall be designed to accommodate collocations to the maximum extent that is technically feasible.
- (4) Upon request of the applicant, the administrator may waive the requirement that a new small wireless facility accommodate the collocation of the service provider if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter wireless support structure with fewer antennas will promote community compatibility, or that collocation of other service providers is technically unfeasible.
- (5) New small wireless facilities may be built no closer than 200 feet from an existing facility unless the new facility involves the replacement of an existing pole, or the new

<sup>7</sup> G.S. § 160A-400.55(b)(1) and (2)

<sup>8</sup> G.S. § 160A-400.55(e)

<sup>9</sup> G.S. § 160A-400.55(b)(1) and (2)

pole takes the place of a proposed pole in a new development<sup>10</sup>.

- (6) Unless otherwise required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or the Town, the composition of new wireless support structure shall be either wood, or metal, in silver or gray, or black finish.
  - a. Where a new pole replaces an existing pole, the new pole shall be designed and constructed to match the pole it is replacing.
  - b. Concrete or reinforced concrete shall not be used.
  - c. Any new poles installed shall be environmentally “green” and not leach any volatile organic compounds or toxic materials into the ground.
- (7) Wireless installations shall be on poles that meet or exceed current National Electric Safety Code (NESC) standards and wind and ice loading requirements of ANSI 222 Version G for essential services.
- (8) No exterior lights are permitted on any small or micro facilities unless required by the Federal Communications Commission (FCC) or the wireless support structure is designed and permitted as a street light.
- (9) Wireless installations shall utilize a “concealed” design, including all cabling being inside the support structure or inside a shroud.
- (10) All radios, network equipment and batteries will be enclosed in a pedestal cabinet near the pole, or in a pole-mounted cabinet or under a pole-mounted shroud.
- (11) Equipment compounds and/or accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the small wireless facility. Any equipment not used in direct support of such operation shall not be stored on the site. Ground mounted accessory equipment and small wireless facilities may be secured and enclosed with fence not less than six (6) feet in height and must comply with section 15-184 of this chapter. Barbed wire, razor ribbon, concertina wire and other similar security measures shall be prohibited. The administrator may waive the fencing requirement if it is deemed that a fence is not appropriate or needed at the property location.
  - a. An equipment building, shelter or cabinet must not exceed five hundred sixty (560) square feet and twelve (12) feet in height, including the support structure for the equipment.
  - b. Equipment buildings must comply with Local, State and Federal Flood Zone Restrictions.
  - c. Exceptions to height restrictions. Upon the applicant’s request, the administrator may waive the height restrictions to allow for the stacking of

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<sup>10</sup> G.S. § 160A-400.54(d)(5)

equipment on top of each other. The administrator must find that there is a practical necessary for the stacking of the equipment and that any resulting impact on adjoining properties is minimal or may be minimized by requiring appropriate screening. The administrator or designee may waive the height restrictions where a higher support structure is needed to raise the equipment above a slope or floodplain.

- d. If the equipment compound or accessory cabinet(s) is adjacent to or visible from a residential zone, the building or shelter shall be faced with brick or other suitable material on all sides and that the compound area is surrounded by landscaping providing a screen of at least three (3) feet in height at installation. The equipment must conform to the setback standards of the applicable zone. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the own administrator
- (12) Signs on any portion of a small wireless facility shall be prohibited unless required by the Federal Communications Commission (FCC), state of North Carolina or other government agency. A sign permit is required whenever a sign is allowed.
  - (13) Equipment compounds are not permitted in the public right-of-way.
  - (14) Unless proved unfeasible by clear and convincing evidence, in lieu of installing new poles, any wireless installation in the public right-of-way shall replace a pre-existing distributed pole, secondary pole or streetlight. Any work involving public rights-of-way shall be comply with the standards in Article II of Chapter 7 of the Town Code.
  - (15) Outside of the public right-of-way in all districts, the administrator shall have the authority to impose reasonable landscaping requirements surround the equipment compound or accessory equipment cabinet. Required landscaping shall be consistent and surrounding vegetation and shall be maintained by the facility owner. The administrator may choose to not require landscaping for sites that are not visible from the public rights-of-way or adjacent property or in instances where landscaping is not appropriate or necessary.
  - (16) All small wireless facilities located outside the public rights-of-way shall comply with the provisions of Section 15-176(a)(2), (9) and (13). The base of any tower for a small or micro facility shall be set back from a street right-of-way line and every lot boundary line a distance that is not less than the height of the tower.
  - (17) No pole of tower intended for small or micro wireless facilities may be constructed, substantially modified, including modifications relating to collocations, except in accordance with and pursuant to a zoning permit as provided for in Article IV, Part I. of this chapter and, if applicable, to an encroachment permit in accordance to Article II, of Chapter 7.

- a. Subject to the application requirements and approval process outlined in Section 15-52, construction shall begin no later than six months from the date the permit is issued.<sup>11</sup>
- b. Small wireless facilities shall be activated for their intended use in no more than one year from the date a permit is issued, and shall be subject to the renewal requirements of subsection (b)(12) above. Permits shall automatically expire if these deadlines are not met<sup>12</sup>.
- c. If a small wireless facility ceases to transmit a signal for at least 180 days, or the permittee announces that it intends to cease transmitting signals, the facility shall be deemed abandoned on the earlier of the two dates<sup>13</sup>.
  1. If the owner/provider does not remove the facility in 180 days from the date of abandonment, the Town may remove the facility and bill the owner for the costs of removal.
  2. The provider of the facility may receive an extension if the provider provides reasonable evidence that the provider is diligently working to return the facility to service.
- d. Substantial modifications are subject to the provisions of Section 15-176(b) above.

**Section 7.** Section 15-185(e) amended to include small and micro wireless facilities, as follows:

(d) Towers, antennas, and wireless facilities, including small and micro wireless facilities shall not be subject to the maximum height limitations set forth in this section but shall be governed by the restrictions inherent on the definitions of such uses as well as the other provisions of this chapter applicable to use classification 18.000. The height of a tower or antenna attached to a structure other than an antenna shall be the vertical distance measured from the main elevation of the finished grade at the front of the building or structure to which the tower is attached to the top of the tower (or antenna, if the antenna extends above the tower). Pursuant to Section 15-176, the height of a small or micro wireless facility on a new, modified or replacement utility pole shall be measured from the ground to the top of the pole. **(AMENDED 02/18/97)**

**Section 8.** Section 15-52, (Zoning Permits) is amended with the addition of a new Subsection (f) to read as follows:

(e) An application for a zoning permit to collocate small and micro wireless facilities in public rights-of-way on new, existing or replacement utility poles or wireless support structures; or

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<sup>11</sup> G.S. § 160A-400.54(d)(8)

<sup>12</sup> G.S. § 160A-400.54(d)(8)

<sup>13</sup> G.S. § 160A-400.54(d)(8) and (g)

outside public rights-of-way are subject to the approval process required by N.C. Gen. Stat. Chapter 160A, Art. 19, Part 3E. Wireless Telecommunications Facilities, as incorporated into this ordinance.

- (1) In addition to the requirements of section 15-176, and Chapter 7, Streets and Sidewalks, an application for a small wireless facility must include a sworn, notarized affidavit that the small wireless facility shall be:
  - a. activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, and
  - b. collocation shall commence within six months of the permit issuance date, and
  - c. if not, the permit may be revoked.<sup>14</sup>
- (2) Review and processing shall be completed within forty-five (45) days of the Town's receipt of a completed application. The Town shall provide written notice that an application is incomplete within thirty (30) days of the receipt of the application.<sup>15</sup>
- (3) Applications for zoning permits for small wireless facilities shall be reviewed for conformance with this ordinance, including the applicable site plan and State Building code requirements.
- (4) The Town may deny an application for a small wireless facility only on the basis that it does not meet any of the following<sup>16</sup>:
  - a. the Town's applicable ordinance;
  - b. Town ordinances that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment;
  - c. public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or
  - d. the requirements of any historic district.
- (5) Applicants may file for a consolidated application for no more than 25 separate facilities and may receive a permit for the collocation of all the small wireless facilities meeting the requirements of this ordinance. The Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless collocations (i) for which incomplete information has been provided, or (ii) that are denied. The Town may issue a separate permit for each collocation that is approved.<sup>17</sup>
- (6) Applications for small wireless facilities to be in Town rights-of-way shall meet the requirements of Chapter 7, Streets and Sidewalks.
- (7) No zoning permit application or fee is required for the suspension of micro wireless facilities between existing utility poles by or for a communications service provider;

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<sup>14</sup> G.S. § 160A-400.54(d)(6) and (8)

<sup>15</sup> G.S. § 160A-400.54(d)(3) and (4)

<sup>16</sup> G.S. § 160A-400.54(d)(5)

<sup>17</sup> G.S. § 160A-400.54(h)

for routine maintenance; or for the replacement of small wireless facilities with small wireless facilities. An encroachment permit may be required as provided in Chapter 7, Streets and Sidewalks.<sup>18</sup>

**Section 9.** All provisions of any Town ordinance or resolution in conflict with this ordinance are repealed.

**Section 10.** This ordinance is effective upon adoption.

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2017-159  
HOUSE BILL 310**

**AN ACT TO REFORM COLLOCATION OF SMALL WIRELESS COMMUNICATIONS  
INFRASTRUCTURE TO AID IN DEPLOYMENT OF NEW TECHNOLOGIES.**

The General Assembly of North Carolina enacts:

**SECTION 1.** The General Assembly finds the following:

- (1) The design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities are instrumental to the provision of emergency services and to increasing access to advanced technology and information for the citizens of North Carolina.
- (2) Cities and counties play a key role in facilitating the use of the public rights-of-way.
- (3) Wireless services providers and wireless infrastructure providers must have access to the public rights-of-way and the ability to attach to poles and structures in the public rights-of-way to densify their networks and provide next generation services.
- (4) Small wireless facilities, including facilities commonly referred to as small cells and distributed antenna systems, often may be deployed most effectively in the public rights-of-way.
- (5) Expedient processes and reasonable and nondiscriminatory rates, fees, and terms related to such deployments are essential to the construction and maintenance of wireless facilities.
- (6) Wireless facilities help ensure the State remain competitive in the global economy.
- (7) The timely design, engineering, permitting, construction, modification, maintenance, and operation of wireless facilities are matters of statewide concern and interest.

**SECTION 2.(a)** G.S. 160A-400.51(4a) is recodified as G.S. 160A-400.51(4d).

**SECTION 2.(b)** G.S. 160A-400.51(7a) is recodified as G.S. 160A-400.51(7b).

**SECTION 2.(c)** Part 3E of Article 19 of Chapter 160A of the General Statutes, as amended by subsections (a) and (b) of this section, reads as rewritten:

"Part 3E. Wireless Telecommunications Facilities.

**"§ 160A-400.50. Purpose and compliance with federal law.**

...

(c) This Part shall not be construed to authorize a city to require the construction or installation of wireless facilities or to regulate wireless services other than as set forth herein.

**"§ 160A-400.51. Definitions.**

The following definitions apply in this Part.

- (1) **Antenna.** – Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.



- (1a) Applicable codes. – The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.
- (2) Application. – ~~A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.~~ A request that is submitted by an applicant to a city for a permit to collocate wireless facilities or to approve the installation, modification, or replacement of a utility pole, city utility pole, or wireless support structure.
- (2a) Base station. – A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.
- (3) Building permit. – An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of G.S. 160A-417.
- (3a) City right-of-way. – A right-of-way owned, leased, or operated by a city, including any public street or alley that is not a part of the State highway system.
- (3b) City utility pole. – A pole owned by a city in the city right-of-way that provides lighting, traffic control, or a similar function.
- (4) Collocation. – ~~The placement or installation~~ placement, installation, maintenance, modification, operation, or replacement of wireless facilities on ~~on~~, under, within, or on the surface of the earth adjacent to existing structures, including electrical transmission towers, utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, city utility poles, or wireless support structures.
- (4a) Communications facility. – The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.
- (4b) Communications service. – Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.
- (4c) Communications service provider. – A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.
- (4d) Eligible facilities request. – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
- (5) Equipment compound. – An area surrounding or near the base of a wireless support structure within which a wireless facility is located.
- (5a) Fall zone. – The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- (6) Land development regulation. – Any ordinance enacted pursuant to this Part.

- (6a) Micro wireless facility. – A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.
- (7) Search ring. – The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
- (7a) Small wireless facility. – A wireless facility that meets both of the following qualifications:
- a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six cubic feet.
  - b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.
- (7b) Substantial modification. – The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.
- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
  - b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
  - c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.
- (8) Utility pole. – A structure that is designed for and used to carry lines, cables, ~~or wires~~ wires, lighting facilities, or small wireless facilities for telephone, cable television, ~~or electricity, or to provide lighting~~ lighting, or wireless services.
- (8a) Water tower. – A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.
- (9) ~~Wireless facility.~~ – ~~The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.~~ Equipment at a

fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

- a. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
  - b. Wireline backhaul facilities.
  - c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or city utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- (9a) Wireless infrastructure provider. – Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.
- (9b) Wireless provider. – A wireless infrastructure provider or a wireless services provider.
- (9c) Wireless services. – Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.
- (9d) Wireless services provider. – A person who provides wireless services.
- (10) Wireless support structure. – A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a city utility pole is not a wireless support structure.

...

**"§ 160A-400.54. Collocation of small wireless facilities.**

(a) Except as expressly provided in this Part, a city shall not prohibit, regulate, or charge for the collocation of small wireless facilities.

(b) A city may not establish a moratorium on (i) filing, receiving, or processing applications or (ii) issuing permits or any other approvals for the collocation of small wireless facilities.

(c) Small wireless facilities that meet the height requirements of G.S. 160A-400.55(b)(2) shall only be subject to administrative review and approval under subsection (d) of this section if they are collocated (i) in a city right-of-way within any zoning district or (ii) outside of city rights-of-way on property other than single-family residential property.

(d) A city may require an applicant to obtain a permit to collocate a small wireless facility. A city shall receive applications for, process, and issue such permits subject to the following requirements:

- (1) A city may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. For purposes of this subdivision, "services unrelated to the collocation," includes in-kind contributions to the city such as the reservation of fiber, conduit, or pole space for the city.
- (2) The wireless provider completes an application as specified in form and content by the city. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.

- (3) A permit application shall be deemed complete unless the city provides notice otherwise in writing to the applicant within 30 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.
  - (4) The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the city fails to approve or deny the application within 45 days from the time the application is deemed complete or a mutually agreed upon time frame between the city and the applicant.
  - (5) A city may deny an application only on the basis that it does not meet any of the following: (i) the city's applicable codes; (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or (iv) the historic preservation requirements in subsection 160A-400.55(h). The city must (i) document the basis for a denial, including the specific code provisions on which the denial was based and (ii) send the documentation to the applicant on or before the day the city denies an application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.
  - (6) An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, city utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
  - (7) An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of a city shall be allowed at the applicant's discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. A city may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The city may issue a separate permit for each collocation that is approved.
  - (8) The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the city and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (e) A city may charge an application fee that shall not exceed the lesser of (i) the actual, direct, and reasonable costs to process and review applications for collocated small wireless facilities; (ii) the amount charged by the city for permitting of any similar activity; or (iii) one

hundred dollars (\$100.00) per facility for the first five small wireless facilities addressed in an application, plus fifty dollars (\$50.00) for each additional small wireless facility addressed in the application. In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(f) A city may impose a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the cost of reviewing and processing applications required by this section. The fee must be based on the actual, direct, and reasonable administrative costs incurred for the review, processing, and approval of an application. A city may engage an outside consultant for technical consultation and the review of an application. The fee imposed by a city for the review of the application shall not be used for either of the following:

- (1) Travel expenses incurred in the review of a collocation application by an outside consultant or other third party.
- (2) Direct payment or reimbursement for an outside consultant or other third party based on a contingent fee basis or results-based arrangement.

In any dispute concerning the appropriateness of a fee, the city has the burden of proving that the fee meets the requirements of this subsection.

(g) A city may require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the city may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the city reasonable evidence that it is diligently working to place such wireless facility back in service.

(h) A city shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or city utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the city rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or G.S. 105-164.4(a)(6).

(i) Nothing in this section shall prevent a city from requiring a work permit for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in the city right-of-way.

**"§ 160A-400.55. Use of public right-of-way.**

(a) A city shall not enter into an exclusive arrangement with any person for use of city rights-of-way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities.

(b) Subject to the requirements of G.S. 160A-400.54, a wireless provider may collocate small wireless facilities along, across, upon, or under any city right-of-way. Subject to the requirements of this section, a wireless provider may place, maintain, modify, operate, or replace associated utility poles, city utility poles, conduit, cable, or related appurtenances and facilities along, across, upon, and under any city right-of-way. The placement, maintenance, modification, operation, or replacement of utility poles and city utility poles associated with the collocation of small wireless facilities, along, across, upon, or under any city right-of-way shall be subject only to review or approval under subsection (d) of G.S. 160A-400.54 if the wireless provider meets all the following requirements:

- (1) Each new utility pole and each modified or replacement utility pole or city utility pole installed in the right-of-way shall not exceed 50 feet above ground level.

(2) Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.

(c) Nothing in this section shall be construed to prohibit a city from allowing utility poles, city utility poles, or wireless facilities that exceed the limits set forth in subdivision (1) of subsection (b) of this section.

(d) Applicants for use of a city right-of-way shall comply with a city's undergrounding requirements prohibiting the installation of above-ground structures in the city rights-of-way without prior zoning approval, if those requirements (i) are nondiscriminatory with respect to type of utility, (ii) do not prohibit the replacement of structures existing at the time of adoption of the requirements, and (iii) have a waiver process.

(d1) Notwithstanding subsection (d) of this section, in no instance in an area zoned single-family residential where the existing utilities are installed underground may a utility pole, city utility pole, or wireless support structure exceed forty (40) feet above ground level, unless the city grants a waiver or variance approving a taller utility pole, city utility pole, or wireless support structure.

(e) Except as provided in this part, a city may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under G.S. 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:

(1) The right-of-way charge shall not exceed the direct and actual cost of managing the city rights-of-way and shall not be based on the wireless provider's revenue or customer counts.

(2) The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.

(3) The right-of-way charge shall be reasonable and nondiscriminatory.

Nothing in this subsection is intended to establish or otherwise affect rates charged for attachments to utility poles, city utility poles, or wireless support structures. At its discretion, a city may provide free access to city rights-of-way on a nondiscriminatory basis in order to facilitate the public benefits of the deployment of wireless services.

(f) Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately owned utility pole or wireless support structure or to collocate small wireless facilities on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(g) A city may require a wireless provider to repair all damage to a city right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, city utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the city within a reasonable time after written notice, the city may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The city may maintain an action to recover the costs of the repairs.

(h) This section shall not be construed to limit local government authority to enforce historic preservation zoning regulations consistent with Part 3C of Article 19 of this Chapter, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and city charter provisions adopted to implement those laws.

(i) A wireless provider may apply to a city to place utility poles in the city rights-of-way, or to replace or modify utility poles or city utility poles in the public rights-of-

way, to support the collocation of small wireless facilities. A city shall accept and process the application in accordance with the provisions of G.S. 160A-400.54(d), applicable codes, and other local codes governing the placement of utility poles or city utility poles in the city rights-of-way, including provisions or regulations that concern public safety, objective design standards for decorative utility poles or city utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

**"§ 160A-400.56. Access to city utility poles to install small wireless facilities.**

(a) A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) If a city that operates a public enterprise as permitted by Article 16 of this Chapter has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.

(d) Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(e) In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(f) The city shall provide a good-faith estimate for any make-ready work necessary to enable the city utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a city utility pole necessary for the city utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(g) The city shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(h) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.

(i) This section shall not apply to an excluded entity. Nothing in this section shall be construed to affect the authority of an excluded entity to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles, city utility poles, or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use of poles, ducts, or conduits by communications service providers, as defined in G.S. 62-350, are governed solely by G.S. 62-350. For purposes of this section, "excluded entity" means (i) a city that owns or operates a public enterprise pursuant to Article 16 of this Chapter consisting of an electric power generation, transmission, or distribution system or (ii) an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended.

**"§ 160A-400.57. Applicability.**

(a) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the city. This subsection does not prohibit the enforcement of applicable codes.

(b) Nothing contained in this Part shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.

(c) Except as provided in this Part or otherwise specifically authorized by the General Statutes, a city may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or city rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or city rights-of-way and may not regulate any communications services.

(d) Except as provided in this Part or specifically authorized by the General Statutes, a city may not impose or collect any tax, fee, or charge to provide a communications service over a communications facility in the right-of-way.

(e) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Part does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way."

**SECTION 3.(a)** G.S. 136-18 reads as rewritten:

**"§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

- ...
- (10) To make proper and reasonable rules, regulations and ordinances for the placing or erection of telephone, telegraph, electric and other lines, above or below ground, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, and other similar obstructions that may, in the opinion of the Department of Transportation, contribute to the hazard upon any of the said highways or in any way interfere with the same, and to make reasonable rules and regulations for the proper control thereof. And whenever the order of the said Department of Transportation shall require the removal of, or changes in, the location of telephone, telegraph, electric or

other lines, wireless facilities, signboards, fences, gas, water, sewerage, oil, or other pipelines, or other similar obstructions, the owners thereof shall at their own expense, except as provided in G.S. 136-19.5(c), move or change the same to conform to the order of said Department of Transportation. Any violation of such rules and regulations or noncompliance with such orders shall constitute a Class 1 misdemeanor. For purposes of this subdivision, "wireless facilities" shall have the definition set forth in G.S. 160A-400.51.

...."

**SECTION 3.(b)** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-18.3A. Wireless communications infrastructure.**

- (a) The definitions set forth in G.S. 160A-400.51 shall apply to this section.
- (b) The Department of Transportation is authorized to issue permits to wireless providers for the collocation of wireless facilities and the construction, operation, modification, or maintenance of utility poles, wireless support structures, conduit, cable, and related appurtenances and facilities for the provision of wireless services along, across, upon, or under the rights-of-way of State-maintained highways. The permits and included requirements shall be issued and administered in a reasonable and nondiscriminatory manner.
- (c) The Department of Transportation shall take action to approve or deny a permit application for collocation of a small wireless facility under this section within a reasonable period of time of receiving the application from a wireless provider.
- (d) The collocation of small wireless facilities and the construction, operation, modification, or maintenance of utility poles, wireless support structures, conduit, cable, and related appurtenances and facilities for the provision of small wireless facilities along, across, upon, or under the rights-of-way of State-maintained highways shall be subject to all of the following requirements:
  - (1) The structures and facilities shall not obstruct or hinder the usual travel or public safety on any rights-of-way of State-maintained highways or obstruct the legal use of such rights-of-way of State-maintained highways by other utilities.
  - (2) Each new or modified utility pole and wireless support structure installed in the right-of-way of State-maintained highways shall not exceed the greater of (i) 10 feet in height above the height of the tallest existing utility pole, other than a utility pole supporting only wireless facilities, in place as of July 1, 2017, located within 500 feet of the new pole in the same rights-of-way or (ii) 50 feet above ground level.
  - (3) Each new small wireless facility in the right-of-way shall not extend (i) more than 10 feet above an existing utility pole, other than a utility pole supporting only wireless facilities, or wireless support structure in place as of July 1, 2017, or (ii) above the height permitted for a new utility pole or wireless support structure under subdivision (2) of this section."

**SECTION 4.** This act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June,  
2017.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 11:39 a.m. this 21<sup>st</sup> day of July, 2017



3

## TOWN OF CARRBORO

## PLANNING BOARD

4

301 West Main Street, Carrboro, North Carolina 27510

5

6

## MAY 7, 2020 -- REMOTE MEETING

MEMBERS	GUESTS	STAFF
Catherine Fray, Chair	Heather Ferrell	Trish McGuire
David Clinton	Aspen Romeyn	Tina Moon
Braxton Foushee, Vice Chair	Richard Turlington	Marsha Pate
Rachel Gaylord-Miles, Vice Chair		Rebecca Buzzard
Kirsten Leloudis		Anne-Marie Vanaman
Elmira Magnum		
Eliazar Posada		
Susan Poulton		
Bruce Sinclair		
Rasam Tooloee		

7

8

Town Council Liaisons: Susan Romaine, Barbara Foushee

9

10 Absent/Excused: n/a

11

12 **I. WELCOME & AGENDA ADJUSTMENTS**

13 Catherine Fray opened the meeting at 7:35 PM, and welcomed members of the Affordable Housing  
 14 Advisory Commission (AHAC). Staff provided a brief overview of the meeting agenda, the joint advisory  
 15 board meeting process and recommended modifications for the remote meeting format.

16

17 There were no adjustments to the agenda.

18

19 **II. JOINT REVIEW**

20

21 **A) Draft LUO Text Amendments relating to residential uses in the B-1(c) District**

22 Moon provided a short presentation to the Planning Board and Affordable Housing Advisory  
 23 Commission (AHAC) on the request for a text amendment and outlined the different parts of the  
 24 draft ordinance. The applicants have requests the amendment to allow residential uses on the  
 25 ground floor of the B-1(c) zoning district (Town Center Business) to advance an affordable  
 26 housing proposal. Residential uses are allowed in the district, just not on the ground floor. The  
 27 draft ordinance would, if approved, allow such uses on the ground in very specific circumstances:

28

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The draft ordinance also allows for modifications to other provisions in the LUO, such as the  
 standards in Section 15-185.1 (Downtown Neighborhood Protection Overlay), Section 15-204  
 (Downtown Livability Area and Urban Living Amenities), Section 15-178 (Architectural Standards

1 for Downtown Development), and Article XIX (Screening and Trees) relating to canopy cover and  
 2 screening would also be allowed subject to criteria.

- 3
- 4     ▪ Planning Board and AHAC members asked a number of questions for clarification to  
 5 staff and the applicant team, and offered comments. These can be summarized as  
 6 follows:
  - 7     ▪ Clarification with regard to the requirement for tree screening between the subject  
 8 property intended for residential use and the neighboring car repair business.
  - 9     ▪ The definition of affordable housing units Section 15-182.4(b).
  - 10    ▪ How does this project fit within the Town's long-term goals for ADUs, and what  
 11 requirements are set in place to ensure that they will stay affordable in the long-term?  
 12 (*Applicant response - All 4 townhomes would be affordable units built by Habitat for  
 13 Humanity which holds a 99 year ground lease. Target ownership: 80% of AMI with two  
 14 of the four units intended for seniors.*)
  - 15    ▪ Details regarding canopy coverage, how much is the applicant proposing? (*Applicant  
 16 response: they anticipate saving the Pecan tree near the rear parking area and will  
 17 double the amount of canopy coverage currently on the site.*)
  - 18    ▪ How much parking is proposed for the project, where will it be located? (*Applicant  
 19 response: there will be 5 south facing spaces in the southeast portion of the site, away  
 20 from the Pecan tree root zone.*)
  - 21    ▪ How will the building be oriented? (*Applicant response: two townhomes are proposed.  
 22 One would face north and front on Cobb Street, the other would face east and front on  
 23 Broad Street.*)
  - 24    ▪ Members of the AHAC voiced support for the applicant team and their work on  
 25 affordable housing in the community.
  - 26    ▪ Rebecca Buzzard, the Community and Affordable Housing Director provided some  
 27 history of project. The property has been land banked for two years during which time  
 28 the applicant team worked with the Compass Group to determine the greatest interest for  
 29 the neighborhood—higher density housing for seniors that was affordable.
  - 30    ▪ The size of the proposed townhouses were identified as two, two bedroom units are about  
 31 1100 sqft., and two, three-bedroom units at about 1200 sqft.
  - 32    ▪ If the text amendment is approved, the target timeline for project completion would be to  
 33 start building in September and be finished in the spring of 2021. Covid19 may impact  
 34 project completion date.
- 35

36 *The Joint Review portion of the meeting ended at 8:30 PM. AHAC members left the meeting.*

37

### 38 **III. APPROVAL OF MINUTES**

39 Posada moved to approve the minutes; Clinton seconded the motion.

40 **VOTE:** AYES (10) Fray, Clinton, Foushee, Gaylord-Miles, Leloudis, Mangum, Posada, Poulton,  
 41 Sinclair, and Tooloe; **NOES** (0); **ABSTENTIONS** (0); **ABSENT/EXCUSED** (0).

42 The April 30, 2020 Planning Board minutes were approved.

43

### 44 **IV. OTHER MATTERS**

#### 45 **A) Draft LUO Text Amendments relating to residential uses in the B-1 (c) District**

46 Planning Board members discussed the draft ordinance as a standalone amendment to the LUO as  
 47 well as an application to advance a specific affordable housing project. Members noted the  
 48 applicant team's (Self-Help Ventures Fund) work with the Marian Cheek Jackson Center and the  
 49  
 50

1 Compass Group to seek opportunities to provide affordable housing in neighborhood as part of  
2 the greater Northside Initiative.  
3

4 There was discussion about the affordable housing projects in general, were they affordable for  
5 target audiences at the time of construction and over time, would new construction increase the  
6 property values of surrounding properties and therefore have the potential to price existing  
7 residents out of their homes. If Habitat for Humanity was going to build the project, what type of  
8 record did they have on these issues? What guarantee would there be that the project would  
9 provide affordable housing and housing for older residents? If the project moves forward, the  
10 property would retain its commercial zoning status, but would be used for residential purposes.  
11 How to balance the need for increasing the tax base with providing affordable housing?  
12

13 Foushee moved to recommend the LUO text Amendment relating to residential uses in the B-1(c)  
14 District; Poulton seconded the motion, with an additional note in support of relocating the  
15 existing house or reuse to salvage reusable material.

16 **VOTE:** AYES (10) Fray, Clinton, Foushee, Gaylord-Miles, Leloudis, Mangum, Posada, Poulton,  
17 Sinclair, and Tooloe; **NOES** (0); **ABSTENTIONS** (0); **ABSENT/EXCUSED** (0).  
18

19 By a unanimous show of hands, the Planning Board membership indicated that no members have  
20 any financial interests that would pose a conflict of interest to the adoption of this amendment.  
21

22 Poulton moved the associated findings and Gaylord-Miles seconded the motion. The Planning  
23 Board found proposed text amendment, relating to residential uses in the B-1(c) District  
24 consistent with *Carrboro Vision2020* particularly the provisions to support the wellbeing of  
25 special and vulnerable populations and provide housing for a diverse population, as well as Goal  
26 1.1 and 1.2 in the Town's Affordable Housing Goals and Strategies, to increase the number of  
27 homeownership units that are permanently affordable and to allow for increased density for  
28 affordable housing purposes.  
29

30 The Planning Board also found the proposed text amendment reasonable and consistent with the  
31 public health, safety and welfare by furthering the Town's efforts toward providing housing for  
32 all of its citizens.

33 **VOTE:** AYES (10) Fray, Clinton, Foushee, Gaylord-Miles, Leloudis, Mangum, Posada, Poulton,  
34 Sinclair, and Tooloe; **NOES** (0); **ABSTENTIONS** (0); **ABSENT/EXCUSED** (0).  
35

### 36 **B) Officer Elections**

37 After discussion, Planning Board members expressed consensus on a slate of officers consisting  
38 of Catherine Fray as Chair, Rachel Gaylord-Miles as first Vice Chair and Braxon Foushee as  
39 second Vice Chair. The vote was unanimous in support: **VOTE:** AYES (10) Fray, Clinton,  
40 Foushee, Gaylord-Miles, Leloudis, Mangum, Posada, Poulton, Sinclair, and Tooloe; **NOES** (0);  
41 **ABSTENTIONS** (0); **ABSENT/EXCUSED** (0).  
42

### 43 **C) Comprehensive Plan Committee Selection**

44 Discussion on this item was a continuation from the previous meeting on April 30<sup>th</sup>. Following  
45 the recommended framework for the Comprehensive Plan task force, the Planning Board has five  
46 seats on the committee: three are earmarked for the officers and the other two may be occupied  
47 by any other interested members. Three Planning Board members expressed interest: Elmira  
48 Magnum, Eliazar Posada and Rasam Tooloe. Each provided information as to their interest and  
49 potential contribution to the effort. After discussion, the group decided to recommend all three  
50 candidates to the Town Council, due to their diversity, knowledge, experience and skills.

1 Planning Board members expressed consensus on forwarding six members to the Comprehensive  
2 Plan Committee: Fray, Gaylord-Miles, Foushee, Mangum, Posada and Tooloe. The vote was  
3 unanimous in support: **VOTE:** AYES (10) Fray, Clinton, Foushee, Gaylord-Miles, Leloudis,  
4 Mangum, Posada, Poulton, Sinclair, and Tooloe; **NOES** (0); **ABSTENTIONS** (0);  
5 **ABSENT/EXCUSED** (0).  
6

7 **IV. ADJOURNMENT**

8 Motion was made by Poulton to adjourn the meeting, and seconded by Gaylord-Miles. The May  
9 7, 2020 Planning Board meeting was adjourned at 9:27 PM.

DRAFT