

# Joint Review Advisory Boards

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

## AGENDA ITEM ABSTRACT

**MEETING DATE: June 2, 2016**

**TITLE:** Proposed rezoning for property at 700 Old Fayetteville Road from R-10 and R-10 and B-4 to B-4-CZ, and associated LUO text amendments

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES _ NO <u>X</u></b>
<b>ATTACHMENTS:</b> <b>Part I. Rezoning</b> A. Staff memo B. Petition for Change of Zoning C. Draft Ordinance for Rezoning D. Recommendation Template for Rezoning <b>Part II. LUO Text Amendment</b> A. Request for Text Amendment B. Draft Ordinance C. Recommendation Template	<b>Tina Moon – 918-7325</b> <b>Patricia McGuire – 918-7327</b>

### PURPOSE

The Town has received an application from Ted Barnes of Argus Development Group, LLC to rezone property at NC Hwy 54 and 700 Old Fayetteville Road to B-4-conditional rezoning (B-4-CZ) for the construction of a mixed-use development to include a grocery store, commercial outparcels and a multi-story apartment building. An application for text amendments to the Land Use Ordinance, relating to the project has also been submitted. The Board of Aldermen has set a public hearing date for Tuesday, June 28, 2016 to consider both of these requests. Advisory board review has been requested prior to the public hearing.

### INFORMATION

**Rezoning.** The subject property includes four parcels known collectively as the Lloyd Farm and located at the northeast corner of NC Hwy 54 and Old Fayetteville Road. The parcels are further identified by Orange County PIN numbers as Lot 1 (PIN #9779-09-7922), Lot 2 (PIN #9778-19-6618), Lot 3 (PIN # 9779-10-7351) and Lot 4 (PIN # 9779-20-0449). The mixed-use development is proposed for lots 1 and 2; no development is proposed for lots 3 and 4. In the draft list of conditions associated with the rezoning, the applicant has included a condition to offer lots 3 and 4 to the Town for public use.

**Text Amendments.** Argus Development Group, LLC, has also submitted text amendment requests to modify the Land Use Ordinance in three areas related to the B-4 zoning district: 1) adding flexibility to the collector street standards to allow a cross section with a slower design speed; 2) allowing multi-family residential uses at a density of approximately R-3 or 3,000 square feet per dwelling unit; and 3) increasing the maximum building height 15 feet taller than the maximum

building height for the district (50 feet in B-4). A draft ordinance (Part II. Attachment B.) has been prepared.

On May 17, 2016, the Board of Aldermen set a public hearing to consider the conditional rezoning and associated text amendments for June 28<sup>th</sup>. The Board must receive public comment before adopting amendments to the Land Use Ordinance (map and text). Advisory board review is also needed.

Materials related to the rezoning: staff memo, petition for change of zoning, draft ordinance for map amendment and recommendation template are included as Part I (Attachments A. through D.). Information from the applicant such as draft conditions, a site plan and examples of potential building elevations are included with the petition for change for zoning. Materials related to the text amendment are included as Part II (Attachments A. through C.).

### **STAFF RECOMMENDATION**

Staff recommends that advisory boards consider the rezoning proposal and determine whether such an action is consistent with Town policy and otherwise beneficial or desirable, and make a recommendation regarding its findings to the Board of Aldermen (Part I. Attachment D.). Staff also recommends that advisory boards review the draft ordinance amending the zoning map to establish B-4-CZ and adopt a recommendation pertaining to the draft ordinance that would amend the text of the LUO (Part II. Attachment C.).



## TOWN OF CARRBORO

NORTH CAROLINA

### TRANSMITTAL

### PLANNING DEPARTMENT

DELIVERED VIA:  HAND  MAIL  FAX  EMAIL

**To:** Joint Review Advisory Boards

**From:** Tina Moon, Planning Administrator

**Date:** May 26, 2016

**Subject:** Request for Rezoning and LUO Text Amendments for Proposed Development at 700 Old Fayetteville Road

### **BACKGROUND**

On September 16, 2014 the Board received a request to set a public hearing on a proposed conditional use rezoning/conditional use permit application for the Lloyd Farm, a mixed use development at 700 Old Fayetteville Road. The Board did not set the public hearing but instead directed staff to explore options with the Dispute Settlement Center for developing a facilitated process by which the applicant, Argus Development, LLC, the Town and representatives from the adjacent neighborhood could better address neighbor concerns about the project. A mediation process followed and included a series of meetings during the summer and early fall of 2015. At the outset, the stakeholders agreed to a shared objective that at the end of mediation process the applicants would have a revised site plan and would be ready to resume the public hearing process. At the conclusion, the stakeholders agreed that the modified site plan could move forward as a request for conditional zoning.

**Change to the Process.** In February 2016, the applicants submitted a new application for the conditional zoning of the property. The change affects the process. With conditional use zoning the applicant submits the rezoning request and conditional use permit (CUP) materials at the same time; with conditional zoning the applicant submits the rezoning request first and, if approved, the CUP application follows afterward. The use of conditional zoning offers additional opportunity for public input and allows the Board greater flexibility to participate in conversations about the project outside of formal meetings; binding conditions are decided as part of the rezoning.

**Changes to the Project.** Changes to the project that were made in response to the mediation process are as follows:

- 1) Residential use - The residential component of the current proposal includes a senior-living (restricted to 55 years of age or older) development with approximately 200 apartments, a parking deck and 20 duplex cottages, instead of 293 apartments with a parking deck.
- 2) Tree protection/open space – The mature hardwood tree stand at the corner of Old Fayetteville Road with NC 54 will now be preserved as open space without intrusion of buildings or parking. To accomplish this, Lloyd Farm’s development program in that immediate area was reduced by 9,455 square feet. Twenty-eight parking spaces were also eliminated.
- 3) Proposed dedication of land to the Town - The applicant is offering the 4.67-acre tract (lots 3 and 4) at the northeast corner of the property and near the intersection of James and Carol Streets to be dedicated to the Town of Carrboro for neighborhood park purposes instead of becoming a townhome community.
- 4) Vehicular access & circulation - Vehicular access and circulation differ between the two applications as a roundabout is now proposed for the Old Fayetteville Road entrance and a “left-over” entrance-only median break on NC 54 is proposed for use by eastbound traffic at the main NC 54 entrance. Both changes were requested during the mediation process. The applicant is in the process of updating the Traffic Impact Analysis to reflect these changes as well as the change to the residential units.
- 5) Other site design changes - The retail shops have been reoriented to shift shop frontages away from the adjoining neighborhood; the community gathering area has moved closer to the greenway; the 24-space parking lot north of the retail shops has been eliminated; and a 35-space parking lot located north of the access road has been eliminated.

## **OVERVIEW**

Section 15-320 of the Land Use Ordinance (LUO) separates zoning map amendments into two categories--major and minor. This particular request involves fewer than five parcels of land and less than fifty acres overall. Per subsection 15-320 (b) the rezoning request is classified as a “minor map amendment.”

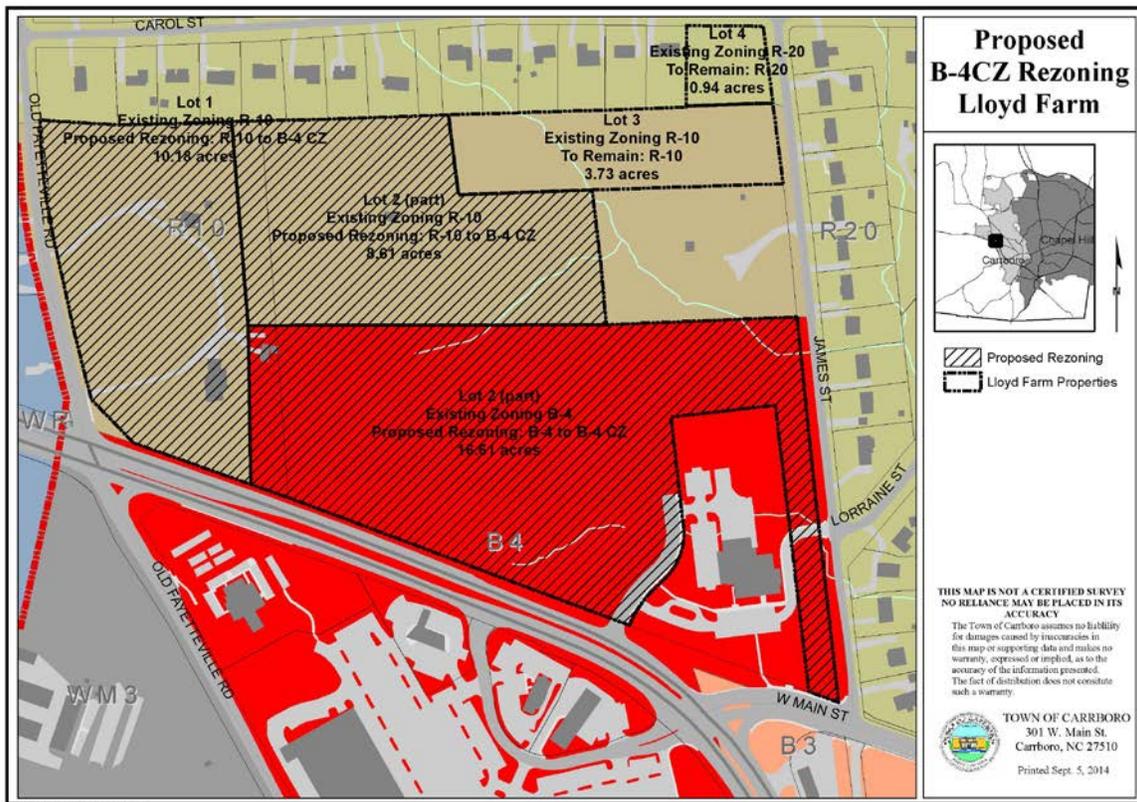
The subject property includes four parcels known collectively as the Lloyd Farm and located at the northeast corner of NC Hwy 54 and Old Fayetteville Road. The parcels are further identified by Orange County PIN numbers and shown on a vicinity map (Attachment D) as Lot 1 (PIN #9779-09-7922), Lot 2 (PIN #9778-19-6618), Lot 3 (PIN # 9779-10-7351) and Lot 4 (PIN # 9779-20-0449).

The table below offers an “at a glance” summary.

Lot	PIN	Existing Zoning	Proposed Zoning	Acreage
1	9779-09-7922	R-10	B-4-CZ	10.18
2	9778-19-6618	R-10	B-4-CZ	8.61
2	9778-19-6618	B-4	B-4-CZ	16.61
3	9779-10-7351	R-10	R-10	3.73
4	9779-20-0449	R-20	R-20	0.94

No development is proposed for lots #3 and #4.

The vicinity map (below) shows the extent of the entire forty-acre site which currently falls within three different zoning classifications. The petition for change of zoning includes two of the four parcels: lots 1 and 2. Lot 2 currently falls within two different zoning classifications: R-10 and B-4. If approved all of lots 1 and 2 would be rezoned to B-4-CZ. The remaining two smaller parcels fronting James Street are not included in the rezoning petition. Part of the overall development proposal, lots 3 and 4 will retain their current zoning--R-10 and R-20 respectively.



Vicinity Map showing subject properties in diagonal hatching.

**PETITIONERS/OWNERS**

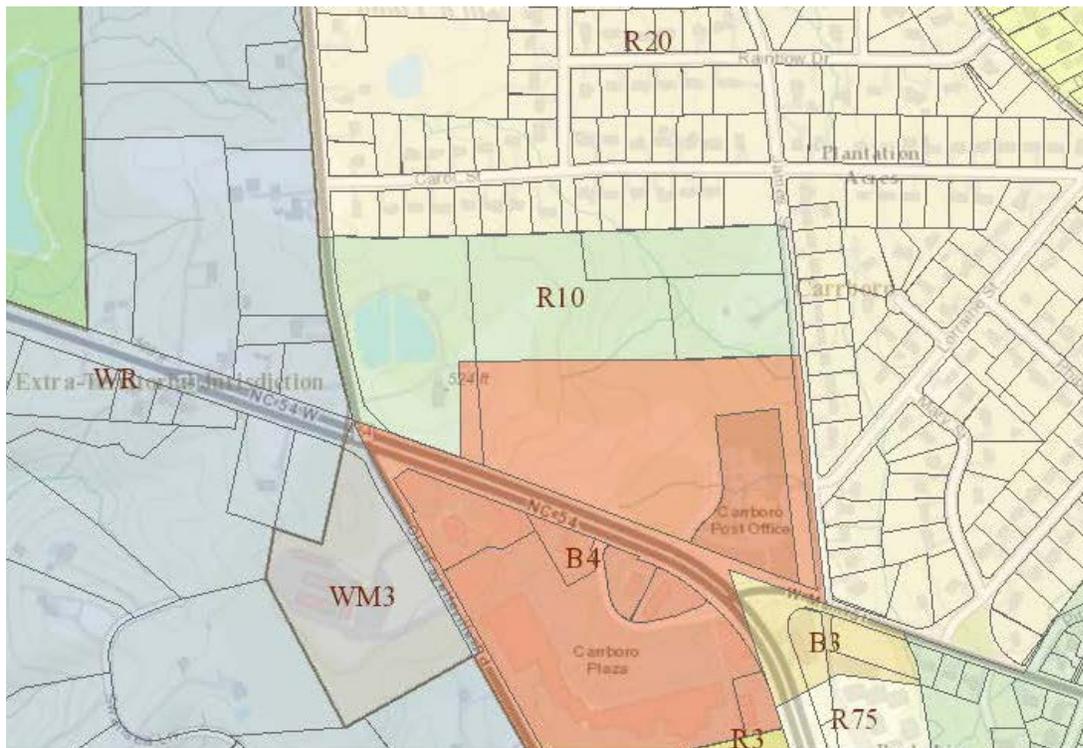
The subject property is owned by Shelton Gene Lloyd and Brody Lemuel Lloyd, owners and joint executors of the estate of Roy Shelton Lloyd. Ted Barnes, of Argus Development, LLC, is the developer.

**DESCRIPTION OF THE AREA**

Density and Dimensional Regulations. A comparison of the density and dimensional requirements between the existing (R-10 and B-4) and proposed zoning districts (B-4-CZ) provides a sense of the potential development impact on adjacent properties, should the zoning change occur. The surrounding properties are mainly single family residential units located to the north of the proposed site, that are zoned R-20 and single family residential units located on the west side of Old Fayetteville Road that are zoned WR for Watershed residential. The requirements are presented in the table below.

	<b>Surrounding Zoning – R-20</b>	<b>Surrounding Zoning - WR</b>	<b>Existing Zoning – R-10</b>	<b>Requested Zoning – B-4-CZ</b>
<b>Density</b>	20,000 per dwelling unit	217,800 per dwelling unit	10,000 per dwelling unit	1,500 per dwelling unit
<b>Height</b>	35 feet	40 feet	35 feet	50 feet*
<b>Setbacks</b>	40/20 r/w; 20 log boundary	35/17.5 r/w; 20 lot boundary	25/12.5 r/w; 12 lot boundary	30/15 r/w; 10 lot boundary

\*The applicants have requested a text amendment to the Land Use Ordinance to increase the maximum building height to 65 feet for the multi-family residential units.



**COMPARISON OF ZONES**

Existing Residential District. R-10 is a residential district with a minimum lot size/density requirement of 10,000 square feet per dwelling unit. Permitted uses in the R-10 district include a range of residential activities, civic, community, recreational, utility uses, and day cares and are allowed subject to the appropriate land use permit (zoning permit, special use permit or conditional use permit)..

Existing Business District. The B-4 (Outlying Concentrated Business) zoning district is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town’s central business district but that are served by the town’s major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

Proposed Business District. The B-4-CZ (Outlying Concentrated Business, Conditional) zoning district is a conditional district, further described in Section 15-141.4. Conditional zoning districts are zoning districts in which the development and use of property so zoned is governed by the regulations applicable to one of the general use districts listed in the Table of Permissible Uses as modified by the conditions and restrictions imposed as part of the legislative decision creating the district and applying it to a particular property. In accordance with Subsection 15-141.4 (d) the conditional zoning district petition may be approved with a list of conditions and site-specific standards to address the conformance of the development and use of the site.

A conceptual site plan and illustrative rendering are attached to the agenda materials, separate from the staff memo. A draft list of conditions for the rezoning is also attached. Conditions for conditional zoning are linked to the rezoning, and must be mutually accepted by the Town and the applicant. The list of conditions will continued to be refined during the advisory board and public hearing process; advisory boards may suggest additional conditions as part of their review comments. In the draft list of conditions associated with the rezoning, the applicant has included a condition to offer Lots #3 and #4 to the Town for public use.

Should the Board of Aldermen adopted the proposed text amendment submitted as part of the development project, use classification 1.332, Multi-family apartments (without a limit to the number of bedroom per unit) would also be a permitted use in the B-4-CZ district.

A comparison of permitted uses in the zoning districts is summarized in the table below.

<b>General Use Category</b>	<b>Number of Uses Permitted in R-10 District</b>	<b>Number of Uses Permitted in B-4 District</b>	<b>Proposed Number of Uses in B-4-CZ District</b>	<b>Change in Uses Permitted</b>
Residential (1.000)	26	0	1	-4

<b>General Use Category</b>	<b>Number of Uses Permitted in R-10 District</b>	<b>Number of Uses Permitted in B-4 District</b>	<b>Proposed Number of Uses in B-4- CZ District</b>	<b>Change in Uses Permitted</b>
Sales and Rental of Goods (2.000)	0	5	5	+5
Office, Clerical, Research (3.000)	0	6	6	+6
Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment(4)	0	0		0
Educational, Cultural, Religious, Philanthropic, Social (5.000)	3	7	7	+4
Recreation (6.000)	4	8	8	+6
Institutional Residence or Care of Confinement Facilities (7.000)	0	0	0	0
Restaurant, Bar, Nightclub (8.000)	0	6	6	+6
Motor Vehicle-related (9.000)	0	3	3	+3
Storage and Parking (10.000)	0	0	0	0
Scrap Materials Salvage Yards, Junkyards, Automobile Graveyards (11.000)	0	0	0	0
Services and Enterprises Related to Animals (12.000)	0	1	1	+1
Emergency Services (13.000)	4	4	4	0
Agricultural, Silvicultural, Mining, Quarrying (14.000)	3	1	1	-2
Public/Semi-public Utility Facilities (15.000)	2	6	6	+4
Dry Cleaner, Laundromat (16.000)	0	2	2	+2
Utility Facilities (17.000)	3	4	4	+1
Towers and Related Structures (18.000)	2	3	3	+1
Open Air Markets, Horticultural Sales (19.000)	0	1	1	+1
Funeral Home (20.000)	0	1	1	+1
Cemetery (21.000)	1	3	3	+2
Day Care (22.000)	4	4	4	0
Temporary Structure or Parking (23.000)	1	1	1	0
Commercial Greenhouses (25.000)	0	0	0	0
Subdivisions (26.000)	2	2	2	0
Combination Uses (27.000)	1	1	1	0
Planned Unit Developments (28.000)	1	1	1	0*
Special Events (29.000)	1	1	1	0
Planned Industrial Development(30.000)	0	0		0*
Off-Premises Signs (31.000)	0	0		0
Village Mixed Use (32.000)	0	0		0*
Office/Assembly Planned Development (33.000)	0	0		0*
Temporary Lodging (34.000)	1	1		0

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

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

## **ANALYSIS**

### **Policy**

Carrboro Vision2020 presents the policies that are expected to guide the Town's growth and development through the year 2020. In the Petition for Change of Zoning the petitioners have provided responses in support of their assertion that the proposed zoning district classification is consistent with the Town's adopted plans and policies. Staff has identified the following sections of Carrboro Vision2020 that pertain to the request for rezoning:

#### **2.0 DEVELOPMENT**

Carrboro's development should take place in a manner consistent with a set of adopted values. Growth should occur in a balanced fashion, and at a rate that does not jeopardized the values set forth by Vision 2020. The interests of all members of the community, including property owners, neighbors, and other interested citizens should be considered when making development decisions.

#### **2.5 Balanced and Controlled Growth**

2.52 The town should continue to require the construction of a diverse housing stock.

#### **3.0 ECONOMIC DEVELOPMENT**

With the population of Carrboro expected to increase during the Vision2020 period, additional commercial development should be anticipated both downtown and in peripheral areas. Carrboro should seek to reduce the tax burden on single-family owners by increasing the percentage of commercial space in town.

#### **3.1 Nature of Development**

In the interest of environmental preservation, new commercial development must minimize negative environmental impact, it must emphasize appropriate buffers, and it must not compromise the integrity of established neighborhoods.

#### **3.3 New Commercial Growth**

Opportunities for new commercial growth exist primarily in four areas: downtown, across from the Carrboro Plaza Shopping Center, within the commercial core of a village mixed-use development, and within new office/assembly conditional use developments. The latter two options are most obviously appropriate in the transition area, but may be approved throughout the town's jurisdiction.

3.312 All shopping centers should be connected to residential areas with increased pedestrian access.

#### **4.5 New Development**

4.51 The town should continue to require developers to install sidewalks and bicycle paths in new developments.

4.52 New developments should bear the costs of upgrading connector and arterial facilities in the areas adjacent to their properties to the extent appropriate, including upgrades to serve pedestrians and bicycles, given the added load to the infrastructure and anticipated use of facilities.

## **6.1 Housing for a Diverse Population**

6.11 Town policy should accommodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.

6.16 With our growing population of senior citizens, the town should support the creation of more housing that allows our senior citizens to interact fully with the larger community. Senior access to public transit will become an increasingly important concern.

## **CONSIDERATIONS**

When considering a map amendment, the principal question before the Town is whether the rezoning advances the public health, safety, or welfare (Section 15-325). The proposed amendment is for a condition rezoning; the Board shall consider the merits of the application in consideration of the proposed development program and conditions. Section 15-324 of the LUO requires that the Board adopt a statement describing the consistency of the amendment with an officially adopted plan and explaining why the action is reasonable and in the public interest.

Section 15-322 of the LUO also outlines the role of the Planning Board and other advisory boards to comment on proposed rezonings. Board comments should focus on whether the rezoning is consistent with adopted plans and policies. To aid in the preparation of boards remarks, the following LUO excerpts are attached: sections from Article IX, Zoning Districts and Zoning Map, define the existing and proposed zoning classifications and sections from Article XX, Amendments, describe the amendment process in more detail.

## ARTICLE IX

### ZONING DISTRICTS AND ZONING MAP

#### PART I. ZONING DISTRICTS

##### **Section 15-135 Residential Districts Established.**

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

##### **Section 15-136 Commercial Districts Established (AMENDED 02/4/86; 05/28/02).**

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

(5) **B-4 OUTLYING CONCENTRATED BUSINESS.** This zone is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

## **ARTICLE XX**

### **AMENDMENTS**

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

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

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

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

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

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

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

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

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

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

**Section 15-322 Planning Board and Other Advisory Consideration of Proposed Amendments  
(AMENDED 10/24/06)**

- (a) If the Board sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the planning board for its consideration and may refer the amendment to the appearance commission if community appearance is involved, and may refer the amendment to the transportation advisory board if the amendment involves community transportation issues. **(AMENDED 09/19/95)**
- (b) The planning board shall advise and comment on whether the proposed amendment is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plans officially adopted by the Board of Aldermen. The planning board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the planning board. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the Board of Aldermen may proceed in its consideration of the amendment without the planning board report. **(AMENDED 10/24/06)**
- (c) A comment by the planning board that a proposed amendment is inconsistent with the Land Use Plan, Thoroughfare Plan or other officially adopted plan shall not preclude consideration or approval of the proposed amendment by the Board of Aldermen, and the Board of Aldermen is not bound by the recommendations of the planning board. **(AMENDED 10/24/06)**
- (d) A member of the planning board and any other advisory committee that provides direct advice to the Board of Aldermen (i.e. it does not report to the planning board) shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being

considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. **(AMENDED 10/24/06)**

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

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

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

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

(d) The first class mail notice required under subsection (c) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in subsection (c) of this section or may, as an alternative, elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half (1/2) of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Orange County property tax listing for the affected property, shall be notified according to the provisions of subsection (c) of this section. **(AMENDED 10/24/06)**

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

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

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

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

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

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

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

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

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

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

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

(d) Prior to adopting or rejecting any zoning amendment, the Board shall adopt a statement describing whether its action is consistent with the Land Use Plan, Thoroughfare Plan, or other applicable plan officially adopted by the Board and explaining why the Board considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.

(e) A Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (See also Carrboro Town Code Section 2-35).

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

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

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

### **Section 15-326 Protests to Zoning Map Amendments (AMENDED 10/24/06).**

(a) If a petition opposing an amendment to the zoning map is filed in accordance with the provisions of this section, then the proposed amendment may be adopted only by a favorable vote of three-fourths of the Board membership. For the purposes of this subsection, vacant positions on the Board and members who are excused from voting shall not be considered "members of the Board" for calculation of the requisite supermajority.

(b) To trigger the three-fourths vote requirement, the petition must: **(AMENDED 11/26/85)**

- (1) Be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide

buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the Orange County tax listing to determine the “owners” of potentially qualifying areas. **(AMENDED 10/24/06)**

- (2) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.
- (3) Be received by the town clerk in sufficient time to allow the town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.
- (4) Be on a form provided by the town clerk and contain all the information requested on this form.

(c) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.

(d) The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of this chapter as a result of annexation or otherwise.

## APPENDIX A – 2

# PETITION FOR CHANGE OF ZONING FORM

CARRBORO DEVELOPMENT GUIDE  
APPENDIX A

# TOWN OF CARRBORO

## PETITION FOR CHANGE OF ZONING



PETITIONER: Argus Development Group, LLC  
2908 Oak Lake Blvd. Ste 203  
Charlotte, NC 28208

DATE:  
1-15-2016

The Petitioner named above respectfully requests the Board of Aldermen of the Town of Carrboro to rezone the below-described property from R-10-B-4 to B-4-CZ zoning classification. The Petitioner furthermore submits the following information in support of this petition.

1. PETITIONER'S NAME Ted Barnes for Argus Development Group, LLC  
 ADDRESS: 2908 Oak Lake Blvd., Ste. 203  
 TELEPHONE #:(    ) (704) 376-9848
  
2. INTEREST IN PROPERTY(IES): Contract Purchaser
  
3. BROAD DESCRIPTION OF PROPERTY AREAS SOUGHT TO BE REZONED BY REFERENCE TO ADJOINING STREETS: NE Corner of Old Fayetteville Road and NC Hwy. 54
  
4. DESCRIPTION OF INDIVIDUAL LOTS SOUGHT TO BE REZONED:
  - a. OWNER: Shelton Gene Lloyd & Brodie L. Lloyd  
 Pin# 9779-09-7922 ACREAGE 10.15 AC PARCEL:         
 SUBDIVISION NAME: RS Lloyd FRONTAGE        DEPTH:         
 EXISTING STRUCTURES AND USES: Cabin / Garage
  
  - b. OWNER: Estate of Roy Shelton Lloyd  
 Pin# 9778-19-6618 ACREAGE 25.22 AC  
 SUBDIVISION NAME: RS Lloyd FRONTAGE        DEPTH:

See Attached Maps - Existing and Proposed Zoning

CARRBORO DEVELOPMENT GUIDE  
APPENDIX A

EXISTING STRUCTURES AND USES :      Stable

\_\_\_\_\_  
\_\_\_\_\_

c. OWNER: \_\_\_\_\_

TAX MAP: \_\_\_\_\_ BLOCK: \_\_\_\_\_ LOT: \_\_\_\_\_ ACREAGE \_\_\_\_\_ PARCEL: \_\_\_\_\_

SUBDIVISION NAME: \_\_\_\_\_ FRONTAGE \_\_\_\_\_ DEPTH: \_\_\_\_\_

EXISTING STRUCTURES AND USES :

\_\_\_\_\_  
\_\_\_\_\_

d. OWNER: \_\_\_\_\_

TAX MAP: \_\_\_\_\_ BLOCK: \_\_\_\_\_ LOT: \_\_\_\_\_ ACREAGE \_\_\_\_\_ PARCEL: \_\_\_\_\_

SUBDIVISION NAME: \_\_\_\_\_ FRONTAGE \_\_\_\_\_ DEPTH: \_\_\_\_\_

EXISTING STRUCTURES AND USES :

\_\_\_\_\_  
\_\_\_\_\_

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

NAME	ADDRESS
See Attachment A	

6. HAS THIS PROPERTY BEEN THE SUBJECT OF A ZONING CHANGE SINCE 1979? YES \_\_\_ NO \_\_\_  
IF "YES", WHEN? \_\_\_\_\_

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



OWNER SIGNATURE ADDENDUM  
LLOYD FARM CONDITIONAL REZONING APPLICATION

Shelton Gene Lloyd  
Shelton Gene Lloyd, Co-Executor of the  
Estate of Roy Shelton Lloyd

5/6/2016  
Date

Brody Lemuel Lloyd  
Brody Lemuel Lloyd, Co-Executor of the  
Estate of Roy Shelton Lloyd

5/6/2016  
Date

Shelton Gene Lloyd  
Shelton Gene Lloyd

5/6/2016  
Date

Brody Lemuel Lloyd  
Brody Lemuel Lloyd

5/6/2016  
Date

## **Attachment B**

### PETITION FOR CHANGE OF ZONING

**7. Please set out and explain those circumstances pertinent to the property and the manner it relates to the town that demonstrate that the proposed zoning district classification is consistent with the Town's Comprehensive Plan. More Specifically:**

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

Lloyd Farm is most visible to the community from its NC Highway 54 frontage. From that viewpoint, the non-residential uses are consistent with the pattern of land use along NC Highway 54. There is existing retail development on the south side of NC Highway 54 and along the highway corridor. While the economic function of the retail component of Lloyd Farm is similar in nature and scale to neighboring retail, its form is more compact and walkable and its building and landscape design more aesthetically pleasing. For example, Lloyd Farm incorporates existing stands of mature hardwoods into its design, maintaining a soft green viewshed at the intersection.

Lloyd Farm also provides on-site multi-family housing in the form of senior-living apartments and cottages with ADA-accessible pedestrian-friendly connections provided to food and other essential urban services. The juxtaposition of residential use with Lloyd Farm's non-residential uses is consistent with the development pattern on the south side of NC Highway 54.

The character of the existing single-family neighborhoods to the north and east of Lloyd Farm is preserved by the establishment of building setbacks 200'+ to 400'+ deep in dimension from exterior property lines, the preservation of substantial stands of mature hardwood trees along the northern and eastern edges of Lloyd Farm, and the dedication of the northeastern portion of the property assemblage to the Town for civic use.

Retention of the existing vegetative edge along Old Fayetteville Road, supplemented as necessary by additional evergreen landscape material, maintains the existing viewshed along the property's Old Fayetteville Road frontage.

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

This assemblage of properties was identified in the Town's 2006 "Creating Carrboro's Economic Future" report as an opportunity site on the NC Highway 54 corridor for non-residential development:

"The greatest asset of this corridor is that it has the only commercial area in Carrboro with direct access to a four-lane road (the Highway 54 Bypass), which

makes it attractive to retailers. There is one available parcel next to the US Post Office large enough (25 acres) to sustain a significant new retail presence.”

A portion (16.6 acres) of this property is already zoned B-4 (Outlying Concentrated Business). The net result of the proposed conditional rezoning (B-4-CZ), once the open space area is deducted, is the approximate amount of developable acreage that was anticipated within that report.

Furthermore, the property is well-served by public transit, with three bus routes having bus stops located within walking distance and a bus stop provided on-site at Lloyd Farm’s retail plaza area.

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

The conditional rezoning process provides a means by which specific conditions and plans can be attached to the property’s zoning to address identified concerns. The application proposes substantial building setbacks and preserved hardwood stands, with additional evergreen landscaping installed as necessary, to buffer property owners to the north and east of the property and to maintain important elements of their viewshed.

No vehicular connections are proposed to the adjoining neighborhood streets. Instead, paved greenway connections to Lloyd Farm are provided mid-block to the north and to the east for neighborhood bicycle and pedestrian access.

The introduction of public space and the provision of food and other essential urban services enhances this area of Carrboro. The value of nearby properties is preserved and enhanced by the provision of convenient and direct access to urban services and amenities within easy walk/bike distance, a much-desired feature for residential neighborhoods to have as an active living by design option.

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

Conditional rezoning of the property in the manner proposed fulfills the Town’s goal of encouraging non-residential development within designated areas and furthers the goal of creating a diversity of housing by providing senior-living housing proximate to the urban services and amenities provided by Lloyd Farm’s non-residential components.

The NC Highway 54 corridor from Jones Ferry Road to Fayetteville Road is designated as being suitable for retail development, particularly because of the access provided to Orange County residents by the divided-median highway corridor. All three of the Town’s existing B-4 zoning districts are located along this highway corridor.

This proposed conditional rezoning to B-4-CZ adjusts one of those three existing B-4 zoning districts to be similar in net developable acres to that of neighboring commercial property. However, by use of compact design, shared parking, and vertical construction, the similarly-sized non-residential program also adds senior-living housing within approximately the same total amount of developable acreage as the existing traditional non-residential development on the south side of NC Highway 54.

## Proposed B-4-CZ Zoning District Conditions

1. That the Rezoning Site Plan dated February 10, 2016 is incorporated herein to indicate potential land uses, the general location and size of buildings and parking areas, vehicular and bicycle/pedestrian access points, general circulation patterns, stormwater management features, setbacks, preserved trees and other landscaped areas.
2. That approximately 4.6 acres of the 40-acre property assemblage remain zoned residential and be dedicated to the Town of Carrboro for neighborhood civic use.
3. That \$15,000 be provided to the Town of Carrboro for a neighborhood-level traffic calming study to be conducted.
4. That, as a component of any subsequent Conditional Use Permit, appropriate fencing will be installed along the northern property line of the rezoned portion of the property assemblage.
5. That trash/recycling collections and landscape maintenance will be limited to the hours of 6 am to 6 pm on weekdays and 8 am to 5 pm on weekends.
6. That deliveries to retail tenants will be restricted to the hours of 6 am to 10 pm on weekdays and 7 am to 10 pm on weekends.

# LLOYD FARM

Carrboro, North Carolina

## Rezoning Site Plan

### SITE DATA

Parcel ID #'s: 9778-19-6618 / 9779-10-7351 /  
9778-09-7922 / 9779-20-0449

Existing Zoning: B-4, R-10 & R-20

Proposed Zoning: B-4-CZ  
(Portions of R-10 & R-20 to remain)

Acreage: 40.08 AC

### DEVELOPMENT PROGRAM

Commercial Uses	Size
Anchor: Grocery Store	60,300± SF
Mezzanine	4,100± SF
Minors: Retail / Office / Restaurant	23,600± SF
Outparcels: Retail / Restaurant / Bank	32,400± SF
<b>Total</b>	<b>120,400± SF</b>

#### Note:

The uses illustrated on the outparcel lots are speculative in nature and these lots could be developed with other uses permissible in the B-4-CZ zoning district.

Residential Uses	Size
Senior Living	220± Units

Commercial Uses Parking	Size
Grocery / Main Retail Area	343± Spaces
Outparcels	171± Spaces

#### Developer

Carrboro Retail, LLC c/o Argus Development Group

#### Sources

GIS data from Orange County and Town of Carrboro  
Topography: Surveyed 2011 @ 2' increments  
Wetlands / Streams: WRN Consultants - Hickory, NC  
Surveyed Boundary: BBM Associates, Inc. - Raleigh, NC



**THE DESIGN RESPONSE**  
214 E. Chatham Street  
P.O. Box 3585  
Cary, NC 27519-3585  
(919) 469-2080



50' 0 100'

DATE: 2-10-2016

SCALE: 1"=100'

DRAWN BY: EJK, JLS

JOB NO.: 058-001

SHEET NO. 1



# Lloyd Farm Commercial Area



AN ORDINANCE AMENDING THE CARRBORO ZONING MAP TO REZONE APPROXIMATELY 35.37 ACRES OF THE PROPERTY KNOWN AS 700 OLD FAYETTEVILLE ROAD FROM R-10 AND R-10 AND B-4 TO B-4-CZ

**\*\*Draft 05-27-2016\*\***

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

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

That property being described on Orange County Tax Maps as:

Chapel Hill Township, two parcels at 700 Old Fayetteville Road (PIN #9778-19-6618 and PIN #9779-09-7922) encompassing approximately 35.37 acres, and as shown in the table below, is hereby rezoned from R-10 (Residential 10,000 square feet per dwelling unit) and R-10 and B-4 (Outlying Concentrated Business) to B-4-CZ (Outlying Concentrated Business, conditional).

Lot	PIN	Existing Zoning	Proposed Zoning	Acreage
1	9779-09-7922	R-10	B-4-CZ	10.18
2	9778-19-6618	R-10	B-4-CZ	8.61
2	9778-19-6618	B-4	B-4-CZ	16.61

SECTION 2. All provisions of any Town ordinance in conflict with this ordinance are repealed.

SECTION 3. This ordinance shall become effective upon adoption.

The foregoing ordinance having been submitted to a vote received the following vote and was duly adopted this \_\_\_\_ day of \_\_\_\_\_ 2016:

AYES:

NOTES:

ABSENT OR EXCUSED:



# TOWN OF CARRBORO

-----  
*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

**JUNE 2, 2016**

### **700 Old Fayetteville Road – Conditional Rezoning to B-4-CZ**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the \_\_\_\_\_ recommends that the Board of Aldermen \_\_\_\_\_ the draft ordinance.

**VOTE:**

AYES: ( )

ABSENT/EXCUSED: ( )

NOES: ( )

ABSTENTIONS: ( )

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.

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the \_\_\_\_\_ of the Town of Carrboro finds the proposed map amendment \_\_\_\_\_ consistent with *Carrboro Vision 2020*, particularly the following provisions:

**2.0 DEVELOPMENT**

Carrboro’s development should take place in a manner consistent with a set of adopted values. Growth should occur in a balanced fashion, and at a rate that does not jeopardized the values set forth by Vision 2020. The interests of all members of the community, including property owners, neighbors, and other interested citizens should be considered when making development decisions.

**2.5 Balanced and Controlled Growth**

2.52 The town should continue to require the construction of a diverse housing stock.

### **3.0 ECONOMIC DEVELOPMENT**

With the population of Carrboro expected to increase during the Vision2020 period, additional commercial development should be anticipated both downtown and in peripheral areas. Carrboro should seek to reduce the tax burden on single-family owners by increasing the percentage of commercial space in town.

#### **3.1 Nature of Development**

In the interest of environmental preservation, new commercial development must minimize negative environmental impact, it must emphasize appropriate buffers, and it must not compromise the integrity of established neighborhoods.

#### **3.3 New Commercial Growth**

Opportunities for new commercial growth exist primarily in four areas: downtown, across from the Carrboro Plaza Shopping Center, within the commercial core of a village mixed-use development, and within new office/assembly conditional use developments. The latter two options are most obviously appropriate in the transition area, but may be approved throughout the town's jurisdiction.

3.312 All shopping centers should be connected to residential areas with increased pedestrian access.

#### **4.5 New Development**

4.51 The town should continue to require developers to install sidewalks and bicycle paths in new developments.

4.52 New developments should bear the costs of upgrading connector and arterial facilities in the areas adjacent to their properties to the extent appropriate, including upgrades to serve pedestrians and bicycles, given the added load to the infrastructure and anticipated use of facilities.

#### **6.1 Housing for a Diverse Population**

6.11 Town policy should accommodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.

6.16 With our growing population of senior citizens, the town should support the creation of more housing that allows our senior citizens to interact fully with the larger community. Senior access to public transit will become an increasingly important concern.

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

**VOTE:**

AYES:

ABSENT/EXCUSED:

NOES:

ABSTENTIONS:

---

(Chair)

(Date)

# TOWN OF CARRBORO



## LAND USE ORDINANCE AMENDMENT REQUEST

To the Board of Aldermen, the Planning Board, and the Appearance Commission, as appropriate, of the Town of Carrboro:

I (we), the undersigned do hereby respectfully make application and petition the Board of Aldermen to amend the Land Use Ordinance. In support of this application, the following facts are shown:

- 1) The Land Use Ordinance, at present, would allow (description/quote, page and number of section in question):

Permissible Use - See Attachment A

- 2) The proposed amendment to the Land Use Ordinance would allow (describe briefly intended change):

See Attached

- 3) State the reasons for the proposed amendment:

See Attached

Ted Barnes for Argus  
Development Group, LLC

SIGNATURE: \_\_\_\_\_  
*applicant* {print}

ADDRESS: 2908 Oak Lake Blvd., Ste. 203, Charlotte, NC 28208

TELEPHONE NUMBER: 704-376-9848

Attachment A

LAND USE ORDINANCE AMENDMENT REQUEST

Permissible Use

1) The Land Use Ordinance, at present, would allow (description/quote, page and number of section in question) :

Article X, Section 15-146, Multi-Family Apartments 1.331 Maximum 20% > 3 bedrms/du is currently not an allowable use in the B-4 zoning district.

2) The proposed amendment to the Land Use Ordinance would allow (describe briefly intended change) :

Designate Multi-Family Apartments 1.331 as an allowable use within the B-4 zoning district by adding a "C" in the B-4 column, thereby requiring a Conditional Use Permit.

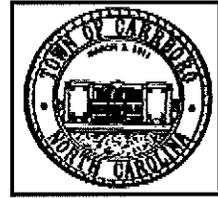
3) State the reasons for the proposed amendment:

The proposed amendment allows the incorporation of rental multi-family housing into the B-4 zoning district, as allowed within most other business zoning districts, specifically in the form of apartments where no more than 20 percent of the units can be greater than three bedrooms (versus the "no bedroom limit" option).

If deemed desirable, the mixed-use ratio standards incorporated into the B-1(g) zoning district for mixed-use projects could be similarly used for B-4 zoning district mixed-use projects, with a base residential density of R-3.

# TOWN OF CARRBORO

## LAND USE ORDINANCE AMENDMENT REQUEST



To the Board of Aldermen, the Planning Board, and the Appearance Commission, as appropriate, of the Town of Carrboro:

I (we), the undersigned do hereby respectfully make application and petition the Board of Aldermen to amend the Land Use Ordinance. In support of this application, the following facts are shown:

- 1) The Land Use Ordinance, at present, would allow (description/quote, page and number of section in question):

Building Height - See Attachment A

- 2) The proposed amendment to the Land Use Ordinance would allow (describe briefly intended change):

See Attached

- 3) State the reasons for the proposed amendment:

See Attached

SIGNATURE: \_\_\_\_\_ Ted Barnes for Argus  
*applicant* Development Group, LLC  
 \_\_\_\_\_ {print}

ADDRESS: 2908 Oak Lake Blvd., Ste. 203, Charlotte, NC 28208  
 \_\_\_\_\_

TELEPHONE NUMBER: 704-376-9848  
 \_\_\_\_\_

Attachment A

LAND USE ORDINANCE AMENDMENT REQUEST

Building Height

1) The Land Use Ordinance, at present, would allow (description/quote, page and number of section in question) :

Article XII, Section 15-187 (a)

In any architecturally integrated subdivision, the developer may create lots and construct buildings without regard to any minimum lot size or setback restrictions except that:

(1) Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and

(2) Each lot shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this chapter.

2) The proposed amendment to the Land Use Ordinance would allow (describe briefly intended change) :

Article XII, Section 15-187 (a)

In any architecturally integrated subdivision, the developer may create lots and construct buildings without regard to any minimum lot size or minimum setback restrictions, or **maximum building height** except that:

(1) Lot boundary setback requirements shall apply where and to the extent that the subdivided tract abuts land that is not part of the subdivision; and

(2) Each lot shall be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this chapter.

3) State the reasons for the proposed amendment:

Since the intent of the Architecturally Integrated Subdivision option is to allow reviewable design flexibility in order to maximize open space preservation, among the dimensional attributes subject to that flexible approach and design review should be the vertical height of the proposed building envelope, not just the horizontal envelope, in order to maximize open space preservation opportunities

Specifically for Lloyd Farm, the design review process afforded by adding building height to the horizontal design elements within the Architectural Integrated Subdivision approach is a more appropriate means to evaluate building heights (both overall and at specific locations) than the standard building height method based on mean average grade. Additionally, only then can building height envelopes be considered in relationship to Lloyd Farm's internal streets, sidewalks, and other public places, plus any external viewsheds, where visual setbacks are much greater. In particular this flexible design review approach will be useful to meaningfully evaluate Lloyd Farm's apartment building that is designed to step up the existing site's slope.



Attachment A

LAND USE ORDINANCE AMENDMENT REQUEST

Street Design

1) The Land Use Ordinance, at present, would allow (description/quote, page and number of section in question) :

Article XIV (Streets and Sidewalks) contains definitions for various classifications of public streets that are based upon their level of traffic count volume. Article XIV then refers to minimum design components (street width, radius of curves, etc.) contained in Appendix C that would result in a street design speed that would not be appropriate for the level of traffic calming desired for an internal local access road.

2) The proposed amendment to the Land Use Ordinance would allow (describe briefly intended change) :

**Add Section 15-227 "Flexibility in Administration Authorized" to Article XIV (Streets and Sidewalks) to allow the permit issuing authority to be able to lower design speeds and therefore vary the minimum design requirements for internal streets associated with a Conditional Use Permit project.**

3) State the reasons for the proposed amendment:

Without this proposed amendment to Article XIV (Streets and Sidewalks), the permit issuing authority has no means to lower street design speeds below those that are by ordinance associated with a street classification system based solely on traffic counts. Higher minimum design speeds result in streets internal to the project that can be driven faster than might be desirable for traffic calming and pedestrian safety purposes due to increased widths and larger centerline curve radii.

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO PROVIDE FLEXIBILITY WITH RESPECT TO STREET DESIGN STANDARDS IN THE B-4-CU AND B-4-CZ DISTRICTS, TO ALLOW MULTI-FAMILY USES IN THE B-4-CU AND B-4-CZ DISTRICTS, TO INCREASE THE BUILDING HEIGHT LIMIT FOR MULTI-FAMILY BUILDINGS IN THE B-4-CU AND B-4-CZ DISTRICTS.

\*DRAFT 6-1-2016\*

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The first sentence of Subsection 15-216(c) of the Carrboro Land Use Ordinance (“LUO”) is amended to read:

“Subject to subsections (d), (d1), (e), and (f), collector streets and other streets not constructed according to the requirements of subsection (b) shall conform to the requirements of this subsection and the specifications referenced in Section 15-219.”

Section 2. Section 15-216 of the LUO is amended by adding the following new Subsection (d1):

(d1) The Board may, for any development approved with a conditional use permit on property zoned B-4-CU or B-4-CZ, authorize a deviation from the standards set forth in subsection (b) and Appendix C relative to streets and sidewalks if the Board concludes that (i) the proposed streets and sidewalks would serve the functions they are designed to serve as well as or better than streets and sidewalks constructed in conformity with subsection (b) and Appendix C; and (ii) such streets and sidewalks will not impose on the town any undue or unreasonable costs or burdens relating to repairs and maintenance.

Section 3. Subsection 15-141.3(c) is amended to read as follows:

(c) Except as otherwise provided in this subsection, the uses permissible within a conditional zoning district established herein, and the regulations applicable to property within such a district, shall be those uses that are permissible within and those regulations that are applicable to the general use zoning district to which the conditional district corresponds. For example, property that is rezoned to a B-2-CU district may be developed in the same manner as property that is zoned B-2, except as provided in this subsection.

(1) Property that is zoned B-4-CU may be developed for use classifications 1.322 (multi-family townhomes, no bedroom limits) and 1.332 (multi-family apartments with no bedroom limits) in addition to other uses permissible in the B-4 district, subject to a conditional use permit and the following: (i) not more than 25% of the area covered by the CUP in this district may be developed for such uses; and (ii) the area developed for such uses shall have a minimum of 1,500 square feet per dwelling unit (except that applicable density bonuses shall apply).

(2) (Reserved)

Section 4. Subsection 15-141.4(c) is amended to read as follows:

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

- (1) Property that is zoned B-4-CZ may be developed for use classifications 1.322 (multi-family townhomes, no bedroom limits) and 1.332 (multi-family apartments with no bedroom limits) in addition to other uses permissible in the B-4 district, subject to a conditional use permit, and the following: (i) not more than 25% of the area covered in this district may be developed for such uses; and (ii) the area developed for such uses shall have a minimum of 1,500 square feet per dwelling unit (except that applicable density bonuses shall apply).
- (2) (Reserved)

Section 5. Subsection 15-147 is amended by adding a new subsection (p) to read as follows:

(p) Notwithstanding the foregoing, use classifications 1.322 and 1.332 may only be permitted in the B-4-CU district, subject to subsection 15-141.3(c) and in the B-4-CZ zoning district, subject to a conditional use permit.

Section 6. Section 15-185 of the LUO (Building Height Limitations) is amended by adding a new subsection (h) to read as follows:

(h) Notwithstanding the remaining provisions of this section, the Board of Aldermen in approving a conditional use permit for a multi-family apartment building within the B-4-CU or the B-4-CZ zoning districts, may allow the maximum building height authorized in subsection (a)(2) of this section to be increased by one foot for every ten feet the building is set back from the otherwise applicable setback line, up to a maximum height of 65 feet, if the Board of Aldermen finds that (i) at least one full story of the building is devoted to parking, and (ii) the building is designed and constructed in relation to the contours of the site in such a manner as to minimize the visual impact of the additional height on adjoining properties.

Section 7. Subsection 15-141.3(d) is amended to read:

(d) Subject to subsection(s) (f) and (g), all uses that are permissible in the conditional use zoning district shall require the issuance of a conditional use permit, regardless of whether a use in the corresponding general use district would ordinarily require (according to the Table of Permissible Uses) a zoning permit, special use permit, or conditional use permit.

Section 8. Subsection 15-141.4 is amended by inserting a new subsection (f) to read as shown below. The existing subsections (f) and (g) to be retained in full and renumbered

accordingly as subsections (g) and (h).

(f) Notwithstanding the foregoing, all uses that are permissible in the B-4-CZ zoning district shall require the issuance of a conditional use permit.

Section 9 Section 15-141.3 is amended by adding a new subsection (g) to read as follows:

(g) If a tract is rezoned to a B-4-CU zoning district, the Board of Aldermen may, in connection with that rezoning, approve a conditional use permit that authorizes the tract to be divided into two or more lots, so long as (i) the application for the CUP contains sufficient information to allow the Board of Aldermen to approve (and the Board does approve) such subdivision (including without limitation the street system, stormwater control system, open spaces, and all other common areas and facilities outside the boundaries of the subdivided lots) as well as the development of at least one of the lots within the subdivided tract, all in accordance with the applicable standards and requirements of this chapter (i.e, the subdivision and development of such lot(s) require no further review by the Board); and (ii) the application specifies (as a proposed condition on the CUP) the use or uses, maximum height, and maximum floor area of any structure(s) allowed on each lot for which the application does not provide sufficient information to allow development approval by the Board.

- (1) Notwithstanding the provisions of subsection 15-64(d), with respect to lots for which the application for a CUP for the entire tract does not provide sufficient information to allow development approval of such lots by the Board, the Board shall specify (by way of a condition upon the CUP) whether development approval of such lots shall be regarded as an insignificant deviation or a minor modification, or shall require a new application. In making this determination, the Board shall consider the extent to which the initial CUP imposes limitations on the use and design of each such lot beyond the minimum requirements of this section. The Board's determination as to the type of approval of such lots shall apply only to applications that are consistent with the permit previously approved by the Board. Such applications may be submitted by persons who have an interest (as described in Section 15-48) only in such lots, rather than the developer of the entire tract zoned B-4-CU.
- (2) Except as provided in subsection (1), the provisions of Section 15-64 and Subsection 15-141.3 shall apply to proposed changes to a CUP issued in connection with a B-4-CU rezoning.

Section 10. Section 15-141.4 is amended by adding a new subsection (i) to read as follows:

(i) For property that is zoned B-4-CZ, the Board of Aldermen may approve a conditional use permit that authorizes the tract to be divided into two or more lots, so long as (i) the application for the CUP contains sufficient information to allow the Board of Aldermen to approve (and the Board does approve) such subdivision (including without limitation the street system, stormwater control system, open spaces, and all other common areas and facilities outside the boundaries of the subdivided lots) as well as the development of at least one of the lots within the subdivided tract, all in accordance with the applicable standards and requirements of this chapter (i.e, the subdivision and development of such lot(s) require no further review by the Board); and (ii) the application specifies (as a proposed condition on the CUP) the use or uses, maximum height, and maximum floor area of any structure(s) allowed

on each lot for which the application does not provide sufficient information to allow development approval by the Board.

(1) Notwithstanding the provisions of subsection 15-64(d), with respect to lots for which the application for a CUP for the entire tract does not provide sufficient information to allow development approval of such lots by the Board, the Board shall specify (by way of a condition upon the CUP) whether development approval of such lots shall be regarded as an insignificant deviation or a minor modification, or shall require a new application. In making this determination, the Board shall consider the extent to which the initial CUP imposes limitations on the use and design of each such lot beyond the minimum requirements of this section. The Board's determination as to the type of approval of such lots shall apply only to applications that are consistent with the permit previously approved by the Board. Such applications may be submitted by persons who have an interest (as described in Section 15-48) only in such lots, rather than the developer of the entire tract zoned B-4-CZ.

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

Section 11. All provisions any town ordinance in conflict with this ordinance are repealed.

Section 12. This ordinance shall become effective upon adoption.



# 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

**JUNE 2, 2016**

**Land Use Ordinance Text Amendments to Provide Flexibility with Respect to Street Design Standards in the B-4-CZ District, to Allow Multi-family uses in the B-4-CZ District, and to Increase the Building Height Limit for Multi-family Buildings in the B-4-CZ District.**

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the \_\_\_\_\_ recommends that the Board of Aldermen \_\_\_\_\_ the draft ordinance.

**VOTE:**

AYES: ( )

ABSENT/EXCUSED: ( )

NOES: ( )

ABSTENTIONS: ( )

**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.

Motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the \_\_\_\_\_ of the Town of Carrboro finds the proposed text amendment \_\_\_\_\_ consistent with *Carrboro Vision 2020*, particularly the following provisions:

**2.5 Balanced and Controlled Growth**

2.52 The town should continue to require the construction of a diverse housing stock.

**3.3 New Commercial Growth**

3.312 All shopping centers should be connected to residential areas with increased pedestrian access.

**4.5 New Development**

4.51 The town should continue to require developers to install sidewalks and bicycle paths in new developments.

4.52 New developments should bear the costs of upgrading connector and arterial facilities in the areas adjacent to their properties to the extent appropriate, including upgrades to serve pedestrians and bicycles, given the added load to the infrastructure and anticipated use of facilities.

**6.1 Housing for a Diverse Population**

6.11 Town policy should accommodate a variety of housing styles, sizes and pricing. It should also address issues of density, funding and rezoning to allow for more non-detached housing, mixed-use development, and communal living options.

6.16 With our growing population of senior citizens, the town should support the creation of more housing that allows our senior citizens to interact fully with the larger community. Senior access to public transit will become an increasingly important concern.

The \_\_\_\_\_ furthermore finds that the above described amendment is reasonable and in the public interest because it links the potential for mixed-use development and more diverse housing options as part of conditional zoning, a mechanism that allows rezonings to occur under very specific conditions so as to ensure compatibility with surrounding and proposed uses.

**VOTE:**

AYES:

ABSENT/EXCUSED:

NOES:

ABSTENTIONS:

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

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