

**ATTACHMENT A**

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO CLARIFY THAT  
LAND MAY BE DEDICATED TO THE TOWN THOUGH SUCH DEDICATION  
RESULTS IN A SITUATION THAT IS NOT CONSISTENT WITH SETBACK  
REQUIREMENTS**

**THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:**

Section 1. The title of Section 15-182.2 (which now reads "Density on Lots Where Portion Dedicated to Town") is amended to read "Effect of Public Acquisition of Property On Density and Setback Requirements," and a new subsection (e) is added to read as follows:

(e) Notwithstanding any other provisions of this chapter, a property owner may dedicate to the town or the town may otherwise acquire a right-of-way over or a fee simple interest in a portion of a lot, even though such acquisition creates a situation where a building or sign is so located on the remainder of the lot that it is inconsistent with the setback requirements set forth in Section 15-184. The setback situation so created shall be regarded as in conformity with the setback requirements of this chapter (rather than as a nonconforming situation) except in relation to the provisions of Section 15-92.1(e).

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 All provisions of any town ordinance in conflict with this ordinance are repealed.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 \_\_\_\_\_, 2002.

Ayes:

Noes:

Absent or Excused:

**Section 15-92.1 Special Exception Permits (AMENDED 06/21/94)**

***[PLEASE REFERENCE "APPENDIX H"]***

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

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

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

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

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

- (1) The reduction may be permitted only for buildings on lots used for conforming residential purposes in residential districts, where the building in question has existed for at least three years prior to the application for the special exception permit;
- (2) In no case may the reduction allow a building to be located closer to a lot boundary line than a distance equal to one-half of the minimum building separation requirement established by the North Carolina State Building Code or allow the location of a building in such proximity to a pre-existing building as to violate the minimum building separation requirement of the North Carolina State Building Code;
- (3) Reductions may be allowed under this section only for setbacks from lot boundary lines, not setbacks from street right-of-way lines.

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

- (1) The proposed encroachment results from an addition to or an extension of an existing structure that already is nonconforming with respect to the requirements of section 15-184; and
- (2) The proposed addition or extension will not encroach upon any required front, rear, or side yard to a greater extent than the existing structure on that lot.



# PLANNING BOARD

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

MARCH 21, 2002

LUO TEXT AMENDMENT: TO CLARIFY THAT LAND DEDICATIONS TO THE TOWN OF CARRBORO MAY RESULT IN INCONSISTENT SETBACKS.

MOTION WAS MADE BY JOHN MARSHALL AND SECONDED BY STAN BABISS THAT THE PLANNING BOARD RECOMMENDS THAT THE BOARD OF ALDERMEN AMEND THE CARRBORO LAND USE ORDINANCE TO CLARIFY THAT LAND DEDICATIONS MAY RESULT IN INCONSISTENT SETBACKS AS RECOMMENDED BY STAFF.

VOTE: AYES (5) BABISS, HAVEN-O'DONNELL, MARSHALL, SEARING AND TREAT; NOES (0); ABSTENTIONS (1) WEST; ABSENT/EXCUSED (4) BATESON, HOGAN, POULTON AND SNIDER:

*Adam Searing by mw* 3/25/02  
Adam Searing, Chair (date)