

ATTACHMENT A

**** DRAFT 03-14-02 ****

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO DEAL WITH VARIOUS ISSUES ARISING FROM INFILL DEVELOPMENT

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The Chapter, article, and section references contained in this ordinance refer to Chapter 15 of the Town Code, the Carrboro Land Use Ordinance.

Section 2. Subsection 15-124(e) is rewritten to read as follows:

- (e) Notwithstanding subsection (a), when one single-family detached residence is located on a lot and that residence (i) constitutes a nonconforming use where it is located, or (ii) is located on a lot that is nonconforming in terms of size, or (iii) is nonconforming with respect to the dimensional or parking requirements of this chapter, then such single-family residence may be enlarged or replaced with another single-family residence of a larger size, so long as:
- (1) The enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to dimensional, parking, or other requirements; and
 - (2) The enlarged or replacement house does not contain more than three bedrooms, or the number of bedrooms of the original house, whichever is greater; and
 - (3) The square footage of heated floor space within the enlarged or replacement house does not exceed that of the original house by more than 50% or 500 square feet, whichever is greater; and
 - (4) If the original house is replaced, the original house is removed from the lot.

Section 3. Section 15-124 is amended by adding thereto a new subsection (e1) to read as follows:

(e1) Notwithstanding subsection (a), when more than one single-family residences is located on a single lot, and such structures (i) constitute nonconforming uses where they are located, or (ii) are located on a lot that is nonconforming in terms of size or density, or (iii) are nonconforming with respect to the dimensional or parking requirements of this chapter, any of such residential structures may be enlarged or replaced with another single-family residential structure of a larger size, so long as:

- (1) The enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to dimensional, parking, or other requirements; and
- (2) The enlarged or replacement house does not contain more than three bedrooms, or the number of bedrooms of the original house, whichever is greater; and
- (3) The square footage of heated floor space within the enlarged or replacement house does not exceed that of the original house by more than 500 square feet; and
- (4) If the original house is replaced, the original house is removed from the lot.

Section 4. Section 15-52 (Zoning Permits) is amended by adding thereto new subsections (d) and (e) to read as follows:

(d) In determining under subsection (c) whether a development for which a zoning permit is requested "will have or may have [a] substantial impact on surrounding properties" the administrator shall consider, among other relevant factors, whether:

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

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

Section 5. Section 15-15 (Definitions) is amended by rewriting the following definitions to read as follows:

- (87) RESIDENCE, DUPLEX. A two-family residential use in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.
- (96) RESIDENCE, TWO-FAMILY. A residential use consisting of a building containing two dwelling units. Two dwelling units connected only by a common garage, porch, walkway, or similar structure, but not connected by a common wall or floor/ceiling with interior living space on either side, shall not be regarded as a two-family residence but shall be regarded as two single-family detached residences.

Section 6. [Alternative A]. Section 15-147 is amended by adding a new subsection (h) to read as follows:

(h) Notwithstanding any other provision of this chapter, whenever a single family detached dwelling (use classification 1.100) is permissible on a lot with a zoning permit under the Table of Permissible Uses, a special use permit shall nevertheless be required if the proposed dwelling contains more than four bedrooms.

Section 6. (Alternative B]. Subsection 15-15(9) (definition of "boarding house") is amended by deleting the phrase "rooming house or" in the second sentence thereof. In addition, Subsection 15-15(100) ("rooming house") is amended to read as follows: "A dwelling unit in which four or more persons who are not all related to each other by blood, adoption, marriage, or domestic partnership live together as a single housekeeping unit. Without limiting the application of Section 15-156, use classifications 1.410, 1.420, and boarding houses are excluded from this definition."

Section 7. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 8. 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:

ATTACHMENT B

AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO CLARIFY THAT APPEALS TO THE BOARD OF ADJUSTMENT MAY BE TAKEN WITHIN THIRTY DAYS OF WHEN THE APPELLANT LEARNS OF THE DECISION APPEALED

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-92(b) is rewritten to read as follows:

(b) An appeal must be taken within thirty (30) days after the date of the decision or order appealed from except that:

- (1) If the decision or order appealed from is the issuance of a permit or some other decision relating to the development of property not owned by the appellant, then the appellant may take an appeal within the later of (i) thirty days after the date of the decision or order appealed from, or (ii) ten days after the appellant knows or any reasonably observant neighbor of the property in question should know of the decision or order appealed; and
- (2) As provided in subsection 15-114(b)(3), an appeal of a civil penalty must be taken within ten (10) days after receipt of the notice of civil penalty.

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:

Chronology of Actions Associated with Pine Street – May 2001 to February 2002

Date	Event	Action	Follow-up
May 22, 2001	Pine Street and vicinity residents approached Board of Aldermen with concerns about new houses at 106 and 108 Pine Street.	<p>Board of Aldermen requested the following:</p> <ol style="list-style-type: none"> 1. Town staff and TAB review parking issues in residential neighborhoods and the possibility of one-waying Pine Street. 2. The Police Department increase patrol on Pine Street. 3. The Board of Aldermen discuss notification of surrounding property owners for developments requiring only a zoning permit. 4. That the Board of Aldermen discuss multi-family units disguised as single-family units. 5. The town staff review options for egress from Carrboro Elementary School. 6. A meeting be held with landlords to discuss the possibility of including behavior /good neighbor language in their lease agreements. 7. The town requests that the developer preserve as many trees as possible. 8. The Board requested that the town staff relay the Board's concerns to the developer with the request that he consider delaying construction on the project until concerns are addressed. 	<ol style="list-style-type: none"> 1. TAB has discussed parking at meetings in July and August and will continue its discussion on September 6th. Traffic counts will be taken the week of August 28. 2. Police Department has included Pine Street among streets where regularly speed monitoring is occurring. Traffic counts are scheduled for August 28-30. 3. No action 4. Expected to occur following August 28 discussion. 5. Staff will submit request for evaluation to NCDOT. 6. Meeting has not yet been scheduled. 7. Staff met with property owner of 106/108 Pine Street, Armin Leith, and modified site plan to retain under story vegetation, in addition to specimen trees. 8. Staff contacted Mr. Leith on May 23 regarding delay of project. Mr. Leith indicated he was willing to meet with neighbors to discuss the matter, but was under some time constraints for completion.
May 25, 2001	Mike Brough, Town Attorney, prepared memo in follow-up to Pine Street concerns.	<p>Mr. Brough's memo noted areas where the Land Use Ordinance might be amended to address the issues noted on May 22nd. The areas include changes to density, family definition (including limits on unrelated persons), establish different categories of single-family dwellings based on number of bedrooms, with greater scrutiny given to homes with more bedrooms, parking requirements and street frontage requirements.</p> <p>The Board of Aldermen received the following requests.</p>	
May 29, 2001	Pine Street residents approached the Board		

	with additional comments.	Margaret Pensik, Pine Street resident requested that Mr. Leith: 1. Maintain landscaping on Pine Street property in keeping with the character of the street and not use ChemLawn. 2. Utilize dogwoods, redwoods and azaleas near house foundations Use gravel for driveways and parking lots – no pavement. 3. Provide off-street parking as far back as possible. And that the Town of Carboro: 1. Limit number of cars parked on the property and develop minimal landscaping standards. 2. Limit number of “non-blood” persons living together – per Durham and Chapel Hill. 3. Treat as commercial property.	
June 5, 2001	Mr. Brough noted the Pine Street follow-up memo.	1. The Board of Aldermen requested that the Agenda Planning Committee schedule a discussion of the Town Attorney’s memo. 2. Alderman Spalt requested that Chris Gerry take a look at the tree when the driveway culvert is replaced.	1. Review scheduled for August 28, 2001. 2. Chris Gerry inspected the tree on June 7, 2001 and made recommendations regarding parking, culvert and driveway.
June 6, 2001	Andreas and Jennifer Hay letter to Mike Brough.	Letter from Mr. and Mrs. Hay regarding interpretation of provisions of Land Use Ordinance pertaining to replacement of residential structures that are non-conforming situations, i.e. new house at 106 Pine Street.	
June 8, 2001	Mike Brough memo to Andreas and Jennifer Hay	Response to letter regarding non-conforming situations.	
June 21, 2001	Mr. Hay filed appeal of approval of zoning permit for development at 106 Pine Street.		
June 21, 2001	TAB discussion of Pine Street issues	TAB reviewed information provided by Mr. Hay.	Staff provided information on parking requirements for single-family development for TAB review on July 19 th .
June 26, 2001	Board of Aldermen	1. Alderman Spalt asked for options on limiting how	1. Expected to follow August 28th discussion.

	meeting – Consensus to discuss all related matters in September.	nonconforming structures can be expanded. 2. Alderman McDuffee asked for information on what Chapel Hill has done about residential parking permits and limits on number of cars per resident.	
July 18, 2001	Board of Adjustment Public Hearing on Appeal of Zoning Permit for 106 Pine Street	Board of Adjustment upheld the issuance of the zoning permit with the following conditions: 1. That the former dwelling at 106 Pine Street be removed. 2. That the gravel driveway on the western property line be removed and a revised plan be submitted for a driveway on the eastern property line. 3. That there should be three parking spaces for each property, giving a total of six spaces.	
July 19, 2001	TAB discussion of parking issues	TAB conducted a general discussion of parking issues and reviewed ordinance provisions pertaining to requirements for single-family homes.	
August 16, 2001	TAB discussion of parking	TAB reviewed a letter from Mr. Hay regarding parking requirements.	This matter will be reviewed further on September 6 th .
August 22, 2001	Writ of certiorari filed for 106 Pine Street		
August 28, 2001	Board of Aldermen meeting – Review of issues to date. Andreas Hay presented a list of suggested changes to LUO	1. Board directed staff to draft an ordinance that would prevent nonconforming structures to be doubled in size. 2. Board requested that town staff provide alternatives for notification. 3. Board expressed its desire to continue discussion of items in Mr. Hay's memorandum.	
September 25, 2001	Andreas Hay presented Board of Aldermen with a list of ordinance changes.	1. Mayor Nelson requested that language dealing with accessory apartments or "mother-in-law" houses be included in October 2 nd review. 2. Alderman McDuffee requested that information on Chapel Hill's parking limits and on-street parking permits be included in October 2 nd review.	1. Information provided on October 2. 2. Information provided on October 2.
October 9, 2001	Board of Aldermen meeting	1. The Board requested that staff draft an ordinance to limit the expansion of	1. Included in draft ordinance – infill development.

		<p>nonconforming units.</p> <ol style="list-style-type: none"> 2. Board requested that staff obtain models from other universities communities of the maximum number of parking spaces allowed per unit. 3. Board requested staff analysis of on-and off-street parking on Pine, Oak, and Cheek Streets. 4. Town Attorney to draft ordinance defining substantial impact. 5. Board requested copy of current notification requirements with ideas for posting info on the Town's website (building and zoning permits). 6. Board requested that staff suggest some additional notification for permits associated with the expansion of nonconforming uses. 	<ol style="list-style-type: none"> 2. In progress. 3. Presented on February 5, 2002. Follow-up to be scheduled. 4. Included in draft ordinance to be reviewed March 19. 5. Notice section of Development Review guide is in preparation. To be completed pending outcome of Board's consideration of resident notification requirements. Development Review guide has been posted on the Town's website. 6. Definition of substantial impact includes properties with nonconforming situations. LUO requires that notices be sent to those persons who have listed for taxation real property any portion of which is within 150 feet of the lot that is the subject of the application.
November 13, 2001	Board of Aldermen	<ol style="list-style-type: none"> 1. Board directed staff to draft ordinance provisions for boarding house and rooming house similar to Chapel Hill's. 2. Board requested that staff draft an ordinance change that defines duplex so that interior living spaces are located on both sides of a common wall (rather than a connecting garage or carport). 3. Board requested that staff bring back options for "granny flats" as proposed by Mr. Hay (500 square feet on lots where 150 percent of the needed lot area). 	<ol style="list-style-type: none"> 1. Two alternatives are included in the draft ordinance. 2. Changes are included in the draft ordinance. 3. Information on granny flats was provided at meeting in November. Village Mixed Use amendments, also scheduled for review on March 19, include an amendment that creates an "Accessory Detached Dwelling" (ADD). Two alternatives for determining the density requirement for this unit are included.
January 14, 2002	Superior Court decision upholding Board of Adjustment decision on 106 Pine Street		
February 5, 2002	Board of Aldermen meeting - Review of staff analysis of parking on Pine, Oak, and Cheek Streets	<ol style="list-style-type: none"> 1. The Board directed staff to contact the school system for the radius of the bus service area around Carboro Elementary School. 2. That the town staff contact the residents of Pine, Oak and Cheek Streets offering the following options: (i) limiting the hours for 	

		<p>parking between the hours of 12:00 midnight and 5:00 a.m.; (ii) limiting parking to one side of the street; and (iii) prohibiting parking on both sides of the street.</p>	
--	--	---	--

Section 15-15 Definitions of Basic Terms.

- (92) **BOARDING HOUSE.** A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests.
- (87) **RESIDENCE, DUPLEX.** A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance. (AMENDED 4/24/84)
- (96) **RESIDENCE, TWO-FAMILY.** A residential use consisting of a building containing two dwelling units. If two dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be located in one building.

Section 15-52 Zoning Permits.

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

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

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

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

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

Section 15-124 Extension or Enlargement of Nonconforming Situations.

(a) Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

- (1) An increase in the total amount of space devoted to a nonconforming use; or
- (2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to subsection (d) a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate such use. However, subject to Section 15-128 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

(c) Subject to Section 15-128 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed at the effective date of this chapter.

(d) The volume, intensity, or frequency of use or property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

(e) Notwithstanding subsection (a), any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformity's or increase the extent of existing nonconformity's with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 15-127 (abandonment and discontinuance of nonconforming situations).

(f) Notwithstanding subsection (a), whenever: (i) there exists a lot with one or more structures on it; and (ii) a change in use that does not involve any enlargement of a structure is proposed for such lot; and (iii) the parking requirements of Article XVIII that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 15-297 if: (i) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (ii) such satellite parking is reasonably available. If such satellite parking is not reasonably available at the time the zoning or special or conditional use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available. This requirement shall be a continuing condition of the permit.

(g) A nonconforming use that operates within an enclosed building may expand one time by enlarging the building within which the use is conducted or by expanding within a building where an extension is not otherwise allowed under subsection (b), so long as: **(AMENDED 6/15/86)**

- (1) The area of the enlargement of the nonconforming use does not exceed the maximums established below:
 - a. If the gross floor area previously occupied by the nonconforming use does not exceed 1,000 square feet, then the maximum expansion shall be equal to 100% of the gross floor area previously occupied by the nonconforming use.
 - b. If the gross floor area previously occupied by the nonconforming use is between 1,001 and 5,000 square feet, then the maximum expansion shall be equal to 1,000 square feet

plus 35% of the difference between the gross floor area previously occupied by the nonconforming use and 1,000 square feet.

- c. If the gross floor area previously occupied by the nonconforming use exceeds 5,000 square feet, then the maximum expansion shall be equal to 2,400 square feet plus 25% of the difference between the gross floor area previously occupied by the nonconforming use and 5,000 square feet. However, in no case may the gross floor area of the expansion exceed 5,000 square feet.
- (2) No additional outside storage is associated with the expansion; and
 - (3) The nonconforming use, when expanded, does not generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the nonconforming use if that is one of several located on a lot; or (ii) uses located on adjacent lots; and
 - (4) At least "B" level screening is provided in conjunction with the expansion ("A" level screening shall be provided if required under Article XIX); and
 - (5) The expansion does not involve the addition of any new drive-in windows; and
 - (6) A permit authorizing the expansion is issued by the board of adjustment, unless the expansion is proposed in connection with a development that otherwise requires a conditional use permit, in which case the permit must be issued by the Board of Aldermen. Such a permit may be issued only if the board finds that the proposed expansion satisfies the foregoing requirements and that:
 - a. All of the applicable requirements of this chapter that can reasonably be complied with will be complied with. Compliance with a requirement of this chapter is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this subsection to construct a building or add to an existing building if additional dimensional nonconformities (including parking nonconformities) would thereby be created; and
 - b. On balance, the benefits to the neighborhood that result from the improvements required under this subsection in conjunction with the expansion of a nonconforming use outweigh the disadvantages inherent in the expansion of a nonconforming use.

(h) Notwithstanding subsection (a), an expansion of a building intended to be used for the provision of emergency services (use classification 13.000) which is nonconforming with respect to setback requirements, whereby the expanded building will be no closer than the existing building to the lot line or the street right-of-way line or centerline with respect to which the existing building is nonconforming, shall not constitute an increase in the extent of nonconformity or a nonconforming situation, provided that to take advantage of this provision, the permit required for the expansion shall be a conditional use permit notwithstanding anything to the contrary in the table of permissible uses. (AMENDED 06/07/88)

Section 15-147 Use of the Designations Z,S,C in Table of Permissible Uses.

(a) Subject to Section 15-148, when used in connection with a particular use in the Table of Permissible Uses (Section 15-146), the letter "Z" means that the use is permissible in the indicated zone with a zoning permit issued by the administrator (except that, in connection with use classification 26.200, minor subdivisions, the letter "Z" means that final plat approval shall be granted by the Planning Director). The letter "S" means a special use permit must be obtained from the board of adjustment, and the letter "C" means a conditional use permit must be obtained from the Board of Aldermen. (AMENDED 1/22/85)

(b) When used in connection with single-family, two-family and multi-family residences (use classifications 1.100, 1.200 and 1.300) outside the watershed districts, the designation "ZSC" or "SC" means that tracts developed with four dwelling units or less require a zoning permit, tracts developed with between five and twelve dwelling units require a special use permit, and tracts developed with more than twelve dwelling units require a conditional use permit. When used in connection with single-family, two-family, and multi-family residences in the watershed districts, the designation "ZC" means that tracts developed with one dwelling unit shall require a zoning permit and tracts developed with two or more dwelling units shall require a conditional use permit. (AMENDED 1/22/85; 2/24/87; 12/15/87)

(c) When used in connection with major subdivisions (use classification 26.100) outside the watershed districts, the designation "SC" means that subdivisions containing between five and twelve lots shall require a special use permit, and subdivisions containing thirteen or more lots shall require a conditional use permit. (AMENDED 7/21/87; 12/15/87)

(d) Subject to Section 15-148, use of the designation "ZC" means that a zoning permit must be obtained if the development is located on a lot of (i) one acre or less in the B-1(g), B-1(c), B-2, or B-3, or B-3-T zones, or (ii) two acres or less in all other zones, while a conditional use permit must be obtained for all developments on lots in excess of these limits. (AMENDED 11/14/88)

(e) Subject to Section 15-148, use of the designation "Z, S" means that a zoning permit must be obtained if the development is located on a lot of two acres or less while a special use permit must be obtained for developments in excess of two acres.

(f) Use of the designation Z,S,C, for combination uses is explained in Section 15-154.

(g) When used in connection with use classification 18.400 (publicly-owned towers and antennas of all sizes that are used in the provisions of public safety services), the designation "ZC" means that the development of such towers that are fifty feet tall or less shall require a zoning permit, and the development of such towers that are more than fifty feet tall shall require a conditional use permit. (AMENDED 10/04/88, 02/18/97)

Section 15-91 Appeals.

(a) An appeal from any final order or decision of the administrator may be taken to the board of adjustment by any person aggrieved. An appeal is taken by filing with the administrator and the board of adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the administrator and the board of adjustment when delivered to the planning department, and the date and time of filing shall be entered on the notice by the planning staff.

(b) An appeal must be taken within thirty (30) days after the date of the decision or order appealed from, except that, as provided in subsection 15-114(b)(3), an appeal of a civil penalty must be taken within ten (10) days after receipt of the notice of civil penalty. **(AMENDED 04/23/96)**

(c) Whenever an appeal is filed, the administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action is appealed from.

(d) An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the board of adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the board of adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrator.

(e) The board of adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

(f) **(REPEALED 4/27/82)**



PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

MAY 16, 2002

LVO Text Amendment: Infill Development and Clarification of Appeal Process

MOTION WAS MADE BY STAN BABISS AND SECONDED BY ANDE WEST THAT THE PLANNING BOARD RECOMMENDS THAT THE BOARD OF ALDERMEN ADOPT "AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO DEAL WITH VARIOUS ISSUES ARISING FROM INFILL DEVELOPMENT" AND "AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO CLARIFY THAT APPEALS TO THE BOARD OF ADJUSTMENT MAY BE TAKEN WITHIN THIRTY DAYS OF WHEN THE APPELLANT LEARNS OF THE DECISION APPEALED" AS RECOMMENDED BY STAFF

VOTE: AYES (5) (Babiss, Haven-O'Donnell, Hogan, Searing, West); NOES (0); ABSENT/EXCUSED (Marshall, Poulton, Treat).

Adam Searing, Chair (date)