

ATTACHMENT A

**A RESOLUTION SETTING A PUBLIC HEARING ON A LAND USE ORDINANCE
TEXT AMENDMENT RELATING TO BUILDING HEIGHTS, ACTIVE
RECREATIONAL FACILITIES AND SIDEWALK WIDTHS IN DOWNTOWN
ZONING DISTRICTS
Resolution No. 59/2002-03**

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to comment on existing and proposed policies and regulations; and

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen set a public hearing for January 14, 2003 on "An Ordinance Amending the Carrboro Land Use Ordinance Relating to Building Heights, Active Recreational Facilities Requirements, and Sidewalk Width Requirements in Downtown Commercial Zoning Districts", and;

BE IT FURTHER RESOLVED by the Carrboro Board of Aldermen that the Aldermen refer the draft ordinance to the Planning Board and Orange County for review.

This is the 3rd day of December in the year 2002.

**** DRAFT 11-21-02 ****

**AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE
RELATING TO BUILDING HEIGHTS, ACTIVE RECREATIONAL FACILITIES
REQUIREMENTS AND SIDEWALK WIDTH REQUIREMENTS IN DOWNTOWN
COMMERCIAL ZONING DISTRICTS**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-185(a) of the Land Use Ordinance is rewritten to read as follows:

(a) Subject to the remaining provisions of this chapter:

- (1) No building in any of the following zoning districts may exceed a height of thirty five feet: R-3, R-7.5, R-10, R-15, R-20, RR, C, B-5, M-2, WM-3, O, and O/A.
- (2) No building in any of the zoning districts listed in the following table may exceed the height indicated.

ZONE	MAXIMUM HEIGHT	EXPECTED HEIGHT RANGE
B-1(e)	Two Stories	24-30 Feet
B-1(g)	Three Stories	36-40 Feet
R-S.I.R.	100'	
R-S.I.R.-II	100'	
CT	Three Stories	36-40 Feet
B-2	Two Stories	24-30 Feet
B-3	28'	
B-3-T	28'	
B-4	50'	
R-2	50'	
M-1	Three Stories	36-40 Feet
WR	40'	

- (3) Buildings in the B-1(c) and the B-1(g) districts may be constructed to a maximum height of three stories where the lot on which the building is located abuts a street right-of-way of fifty feet or less and four stories where the lot on which the building is located abuts a street right-of-way of more than fifty feet or where the lot is located at least fifty feet from the nearest public street right-of-way, except that:

- a. The maximum building height may be increased by one story, up to a maximum height of five stories, for every ten feet that the additional story is set back from the street right-of way beyond the setback specified in Section 15-184; and
- b. Any portion of a building (located on lots within a B-1(c) or B-1(g) district) that exceeds thirty five feet in height must be set back from the property line of any adjoining residentially zoned lot at least a distance equal to twice the lot boundary line setback requirement applicable to such adjoining lot.
- c. **[Alternative one].** If a building in a B-1(c) or B-1(g) district is located on a lot that abuts more than one street, then for purposes of determining the height limit under this subsection, the lot shall be treated as if it abutted only the street having the widest right-of-way.
- c. **[Alternative two].** If a building in a B-1(c) or B-1(g) district is located on a lot that abuts more than one street, then for purposes of determining the height limit under this subsection, the lot shall be treated as if it abutted only the street having the narrowest right-of-way.
- d. If a property owner whose property in a B-1(c) or B-1(g) district abuts a street right-of-way of fifty feet or less dedicates additional right-of-way to increase the right-of-way to more than fifty feet, then the developer of a building on such property may take advantage of the additional height authorized under this subsection, so long as such dedication occurs before a building permit is issued for a building that takes advantage of such additional height.

(4) Buildings in the B-2 district may be constructed to a maximum height of two stories, except that:

- a. The maximum building height may be increased by one story, up to a maximum height of three stories, for every twenty feet that the additional story is set back from the street right-of way beyond the setback specified in Section 15-184; and
- b. Any portion of a building (located on a lot within a B-2 district) that exceeds two stories in height must be set back from the property line of any adjoining residentially zoned lot

at least a distance equal to twice the lot boundary line setback requirement applicable to such adjoining lot.

- (5) Regardless of whether a building in a B-1(c), B-1(g), or B-2 district is set back from the street beyond the setback specified in Section 15-184, if a mansard, gable, or gambrel roof substantially conceals the existence of a story (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls), that story shall not be counted toward the maximum number of stories otherwise allowed under this section, except that in no case shall the maximum building height (including the story contained within the mansard, gable, or gambrel roof) exceed five stories in the B-1(c) or B-1(g) district and three stories in the B-2 district.

Section 2. Subsection 15-185(f) is deleted. [This is no longer necessary because of the sprinkler requirements of Section 12-17 of the town code].

Section 3. Subsection 15-185(g)(3) is rewritten to read as follows: "The terms "story" and "floor" are defined in Section 15-15.

Section 4. Subsection 15-221 (f) is amended to read as follows:

The sidewalks required by this section shall be at least five feet wide, except, where practicable, sidewalks in the B-1 (c), B-1(g), B-2, and C-T zonings shall be at least ten feet wide. Sidewalks are to be constructed according to the specifications set forth in Appendix C, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

Section 5. Section 15-196 (Active Recreational Areas and Facilities Required) is amended by adding a new subsection (i) that reads as follows:

- (i) The active recreational facilities requirement for developments located in the B-1(c), B-1(g), B-2, and CT zoning districts may be satisfied by alternative amenities, such as, but not limited to, sculpture, fountains, benches, and mini-parks. The point value of any alternative amenities shall be determined using the methodology set forth in Appendix G.

Section 6. The title of Section 15-182.2 is amended to read "Effect of Public Acquisition of Property on Density, Setback, and Height Requirements," and a new subsection (f) is added to that section to read as follows:

- f. Notwithstanding any other provisions of this chapter, if a property owner dedicates or the town or the State otherwise acquires from a property owner additional right-of-way along an existing street, then to

the extent that the height of a building is dependent on the distance a building is set back from a street right-of-way, the maximum building height permitted under Section 15-185 shall be calculated as if such dedication or acquisition had not been made

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

Section 8. This ordinance shall become effective upon adoption.

Excerpt of Relevant Land Use Ordinance Provisions**Section 15-182.2 Effect of Public Acquisition of Property On Density and Setback Requirements, (AMENDED 4/2/02;5/28/02)**

(a) Subject to other provisions of this section, if (i) any portion of a lot lies within an area designated on any officially adopted town plan as part of a proposed public park, greenway, or bikeway, or the town or the N.C. Department of Transportation otherwise seeks to acquire a portion of a lot for any public use, and (ii) before the lot is developed, the owner of the lot, with the concurrence of the town, dedicates to the town or the N.C. Department of Transportation that portion of the lot so designated or sought to be acquired, or the town or the N.C. Department of Transportation condemns the same, then, when the remainder of the lot is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development. (AMENDED 11/26/85; 11/28/89)

(b) If the portion of the lot that remains after dedication as provided in subsection (a) is divided in such a way that the division either does not constitute a subdivision or constitutes only a minor subdivision (as these terms are defined in Section 15-15), then, when each of the lots so created is later developed for residential purposes, the permissible density at which each lot may be developed shall be calculated in the following manner:

- (1) Divide the area of the particular lot in question by the total area of the portion of the original lot not dedicated to the town.
 - (2) Multiply the fraction derived from step (1) above times the total area of the dedicated portion of the original lot.
 - (3) Regard the area derived from the calculation in step (2) above as if it were part of the lot in question and calculate the density on the basis of this combined area.
- (c) In no case may the density permitted under this section exceed a level of fifteen dwelling units per acre.
- (d) Notwithstanding any other provisions of this ordinance, the town may condemn additional right-of-way along an existing street even though such condemnation creates a nonconforming lot, and the property owner may at the request of the town dedicate additional right-of-way along an existing street even though such dedication creates or results in the creation of nonconforming lots. (AMENDED 11/26/85)
- (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). (AMENDED 4/2/02)

Section 15-185 Building Height Limitations. (AMENDED 9/13/83; 2/4/86; 11/14/88)

- (a) Subject to the remaining provisions of this chapter:
- (1) No building in any zone other than those listed in the following table may exceed a height of thirty-five feet and no building in the following zones may exceed the height indicated. (AMENDED 01/16/01)

ZONE	MAXIMUM HEIGHT	EXPECTED HEIGHT RANGE
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ZONE	MAXIMUM HEIGHT	EXPECTED HEIGHT RANGE
B-1(c)	Two Stories	24-30 Feet
B-1(g)	Three Stories	36-40 Feet
R-S.I.R.	100'	
R-S.I.R.-II	100'	
CT	Three Stories	36-40 Feet
B-2	Two Stories	24-30 Feet
B-3	28'	
B-3-T	28'	
B-4	50'	
R-2	50'	
M-1	Three Stories	36-40 Feet
WR	40'	

- (2) The maximum height of buildings in the B-1(c) district may be increased to not more than 49 feet when the permit-issuing authority concludes that the proposed building is characterized by a multiplicity of shapes, lines and forms and is otherwise designed and oriented to achieve humanness of scale that is consistent with the pedestrian orientation sought for the downtown.
- (3) It shall be presumed that any building that satisfies the following criteria complies with the standards set forth in subsection (2) for allowing a building height of up to 49 feet in the B-1(c) district and that any building that does not comply with all of the criteria does not satisfy this standard. However, this presumption is rebuttable.
 - a. No plane comprising a portion of the building's exterior wall or roof surface that is oriented toward and visible from any point within a street, parking area or pedestrian way and that lies within 200 feet of such point has a surface whose horizontal run exceeds forty feet or a vertical rise that exceeds twenty-eight feet. For purposes of this subdivision: (i) a plane is a flat surface of such a nature that a straight line joining any two of its points lies wholly in the surface; (ii) when a plane continues along the same orientation as another plane, the two shall be regarded as one unless the nearest edges of the two planes are at least two feet apart and the protrusion or indentation that divides them extends outward or is recessed at least a distance of two feet from the surface of the planes; (iii) when a plane continues along an orientation that is parallel to another plane, the two planes shall be regarded as one unless a distance of at least two feet separates one plane from the imaginary extension of the other parallel plane; (iv) the horizontal run of a plane is determined by measuring the distance along the longest horizontal line that intersects at right angles two parallel vertical lines each one of which touches opposite edges of the plane; (v) the vertical rise of a plane is determined by measuring the distance along the longest vertical line that intersects at right angles two parallel horizontal lines each one of which touches opposite edges of the plane.
 - b. The building includes a covered pedestrian area equal in square feet to the length of the longest side of the building. For purposes of this determination, a side includes all planes with the same basic orientation--north, south, east, or west. Space under awnings shall be considered covered space.
 - c. The building includes an outside plaza or courtyard equal in square feet to six times the length of the longest side of the building, which area is attractively landscaped for pedestrian park type uses and integrated with pedestrian ways planned or existing in the immediate area.
 - d. In lieu of design criteria 'b' and 'c', the building contains substantial atrium space.
 - e. A reasonable amount of exterior decoration is incorporated in the building design. Exterior decoration may include detailed cornices, unique windows and window

treatment, brick detailing, glazing, fountains, statues, vegetation and landscaping other than that required to meet other standards in this ordinance.

(b) Subject to subsections (c) and (d) the features listed in this subsection, when attached to a principal building, may be constructed to a height that does not exceed the lesser of (i) 120% of the district height limitation set forth in subsection (a), or (ii) the district height limitation set forth in subsection (a) plus fifteen feet. By way of illustration, in a zoning district with a height limitation of thirty-five feet, the following features may be constructed to a height of forty-two feet, but such features may not exceed the forty-two feet height limit even if a height variance has also been granted for the principal building (unless a variance has also been granted regarding the height limitation affecting such features.)

- (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage;
- (2) Flagpoles and similar devices;
- (3) Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices.

(c) The exceptions set forth in subsection (b) to the height limitations set forth in subsection (a) shall not be allowed if and to the extent that the permit issuing authority, or the board of adjustment if the permit-issuing authority is the zoning administrator, concludes that such exception(s) would materially interfere with the legitimate use and enjoyment of neighboring properties (including public properties or rights-of-way) or would otherwise pose a danger to the public health and safety.

(d) The features listed in subsection (b) may exceed the height limitation set forth in subsection (a) only in accordance with the following requirements:

- (1) Not more than one-third of the total roof area may be consumed by such features.
- (2) The features described in subdivision (b)(3) above must be set back from the edge of the roof a minimum distance of one foot for every foot by which such features extend above the roof surface of the principal building to which they are attached.
- (3) Enclosures for any of the features set forth in subsection (b) may not surround a greater area than is reasonably necessary to enclose such features.
- (4) The permit issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in subdivisions (b)(1) and (3) from view.

(e) Towers and antennas shall not be subject to the maximum height limitations set forth in this section but shall be governed by the restrictions inherent on the definitions of such uses as well as the other provisions of this chapter applicable to use classification 18.000. The height of a tower or antenna attached to a structure other than an antenna shall be the vertical distance measured from the main elevation of the finished grade at the front of the building or structure to which the tower is attached to the top of the tower (or antenna, if the antenna extends above the tower). **(AMENDED 02/18/97)**

(f) Notwithstanding subsection (a), in any zoning district the vertical distance from the ground to a point of access to a roof surface of any non-residential building or any multi-family residential building containing four or more dwelling units may not exceed thirty-five feet unless the fire chief certifies to the permit-issuing authority that such building is designed to provide adequate access to fire fighting personnel or the building is otherwise designed or equipped to provide adequate protection against the dangers of fire.

(g) For purposes of this section: **(AMENDED 06/28/94)**

- 1) Subject to subsection (g) (2), the height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.

- 2) With respect to single-family detached residences, the height of a building shall be the vertical distance measured from the floor of the main story of the residence at the front elevation to the top of the roof above the floor.
- 3) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than seventy-five percent are regarded as walls.

Section 15-196 Active Recreational Areas and Facilities Required
(AMENDED 5/10/83; 4/24/84; 12/10/85)

(a) Subject to subsection (d) and Sections 15-197 and 15-203, all residential developments shall provide active recreational areas and facilities to such an extent that the sum total of recreation points assigned to each recreational area and facility [under subsection (b)] equals or exceeds the number of recreation points required of that development in accordance with the remaining provisions of this section.

(b) For purposes of this section, a recreation point is a unit of measurement that allows various types of recreational areas and facilities to be compared to one another. As set forth more fully in Appendix G to this chapter, the principal criterion upon which recreation points are assigned to various facilities is the cost associated with the development of such facilities. The following table establishes the recreation points assignable to the facilities listed. Points for facilities not included in the table below shall be determined by the permit issuing authority by applying the methodology set forth in Appendix G.

TYPE FACILITY	POINTS/SQUARE FOOT	TYPICAL POINTS	SQUARE FEET
Swimming Pool	.463	356	(768)
Swimming Pool Patio	.020	6	(2820)
Tennis Court (1)	.034	245	(7200)
Tennis Court (2)	.028	403	(14400)
Tennis Court (4)	.025	720	(28800)
Basketball Court	.058	139	(2400)
Volleyball Court	.014	25	(1800)
Hiking/Biking Trail	.016	64	(4000)
Fitness Station	.022	9	(400)
Picnic Shelter	.148	37	(250)
Gazebo	.326	102	(314)
Clubhouse	.508	609	(1200)
Play Equipment	.107	136	(1275)
Slide	.514	8	(16)
Swing	.176	8	(48)
Climber	.160	8	(50)
Ladder	.108	5	(48)
Balance Beams	.075	3	(40)
Pullup Bars	.330	3	(8)
Seesaw	.076	6	(80)
Whirl	.333	9	(28)
Sandbox	.097	6	(64)
Baseball Field	.010	675	(67500)
Football/Soccer Field	.011	396	(36000)

(c) The minimum total of recreation points required of any development shall equal the sum of the recreation points assigned to each type of dwelling unit or lot proposed for that development in accordance with the following (The methodology for determining the assignment of recreation points to residential type is set forth in Appendix G.):

TYPE OF RESIDENCE (By Use Classification)		POINTS PER DWELLING UNIT
1.100	Single Family detached	10.39
1.120	Includes mobile home parks	11.25
1.200	Two-family residences	10.39
1.300	Multi-family residences	
	One Bedroom	5.94
	Two Bedroom	9.47
	Three or more Bedroom	11.81
1.34	Single-Room Occupancy	2.97

With respect to residential subdivisions other than architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit or that is limited by restrictive covenants to development only with a single dwelling unit shall be deemed to house one single-family detached dwelling unit. Subject to Section 15-197, lots that are large enough to accommodate more than one dwelling unit and are not so limited by restrictive covenants shall be deemed to house the largest number of two-bedroom multi-family units that could be approved under this chapter. (AMENDED 10/10/00)

(d) The Board recognizes that some developments will contain such a small number of dwelling units that the active recreational areas and facilities required pursuant to this section would be of minimal practical value and that maintenance of such areas for so small a development would likely prove problematic. Therefore, the following types of residential developments shall not be required to provide active recreational areas and facilities under this section but shall be required to pay to the town's open space and recreational facilities fund a fee in lieu thereof in accordance with Section 15-203 if the town determines that it will be feasible to provide active recreational areas and facilities on land that can reasonably be expected to serve the residents of such developments:

- (1) Unsubdivided developments that are small enough so that the minimum amount of recreation points required of such developments is not more than 80. (AMENDED 2/24/87)
- (2) Subdivided residential developments of less than fifteen dwelling units. (AMENDED 06/27/95)
- (3) For purposes of this subsection, the term "development" refers to the entire project developed on a single tract or contiguous multiple tracts under common ownership or control, regardless of whether the development is constructed in phases or stages. (AMENDED 2/24/87)

(e) If the proposed development contains land subject to the provisions of 15-198(e), then a bike and pedestrian path that has the potential of connecting with similar type facilities on adjoining tracts that also have lands subject to the provisions of 15-198(e) shall be provided within this area, unless the permit issuing authority concludes that such a bike and pedestrian path would be environmentally undesirable or economically unfeasible. (AMENDED 06/27/95)

(f) Play equipment suitable for children under 12 should comprise at least 10% of the total required recreation points of single-family units and 5% of the points required of multi-family units in a development. Residential developments consisting of solely single-room occupancy units shall be exempt from the requirement to provide play equipment suitable for children. (AMENDED ON 10/10/00)

(g) Active recreational facilities and areas should be located throughout the development so that they can be reached safely and easily by their anticipated users. Such facilities and areas should be on land that is suitable for the intended use, have a minimum of 1200 square feet per area, and be sufficiently screened to minimize the impacts on adjacent residences.

(h) When the cost of the land associated with recreational facilities is included in calculating the recreational points for such facilities under this section, then such land may generally not also be credited toward the fulfillment of the mandatory open space requirements set forth under Section 15-198. Exceptions to this policy are as follows:

- (1) Play fields, including without limitation baseball fields, soccer fields, and football fields;
- (2) Bike and pedestrian paths constructed pursuant to subsection (e) of this section. (Only the area that is within the width of the dedicated easement for the bike and pedestrian area is subject to the double counting provision.)

AMENDED 06/27/95)

Section 15-221 Road and Sidewalk Requirements in Unsubdivided Developments.

(a) Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving specifications shall be determined by the provisions of this chapter dealing with parking (Article XVIII) and drainage (Article XVI). To the extent not otherwise covered in the foregoing articles, and to the extent that the requirements set forth in this article for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this article may be applied to satisfy the standards set forth in the first sentence of this subsection.

(b) Whenever (i) a lot is proposed to be developed residentially for more than four dwelling units or non-residentially in such a fashion as to generate more than 40 vehicle trips per day, and (ii) if the lot were to be subdivided, a street would be required running through the lot to provide a connection between existing or planned adjacent streets in accordance with the provisions of Sections 15-214 and 15-217(a), then the developer shall be required to construct and dedicate the same street that would have been required had the property been subdivided.

(AMENDED 6/25/02)

(c) In all unsubdivided residential developments, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine dwelling units. **(AMENDED 4/24/84)**

(d) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten feet to provide such access.

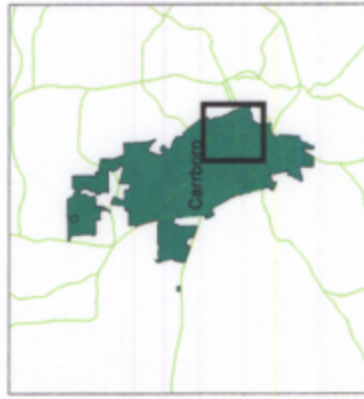
(e) In unsubdivided nonresidential developments that abut a public street, sidewalks shall be constructed adjacent to such street if a sidewalk in that location is required by the officially adopted town sidewalk master plan. Whenever possible, such sidewalk shall be constructed within the public right-of-way.

(f) The sidewalks required by this section shall be at least five feet wide and constructed according to the specifications set forth in Appendix C, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that: **(AMENDED 12/08/98)**

- (1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and
- (2) Such walkways could be more environmentally desirable or more in keeping with the overall design of the development.

Building Heights up to 5 Stories with Design or Dimensional Standards

- R-O-W
0
50+
Streets
Text Road Names (Major)
Town Boundary
5 stories
2 stories(b-2) /3 stories
with standards



680 0 680 Feet

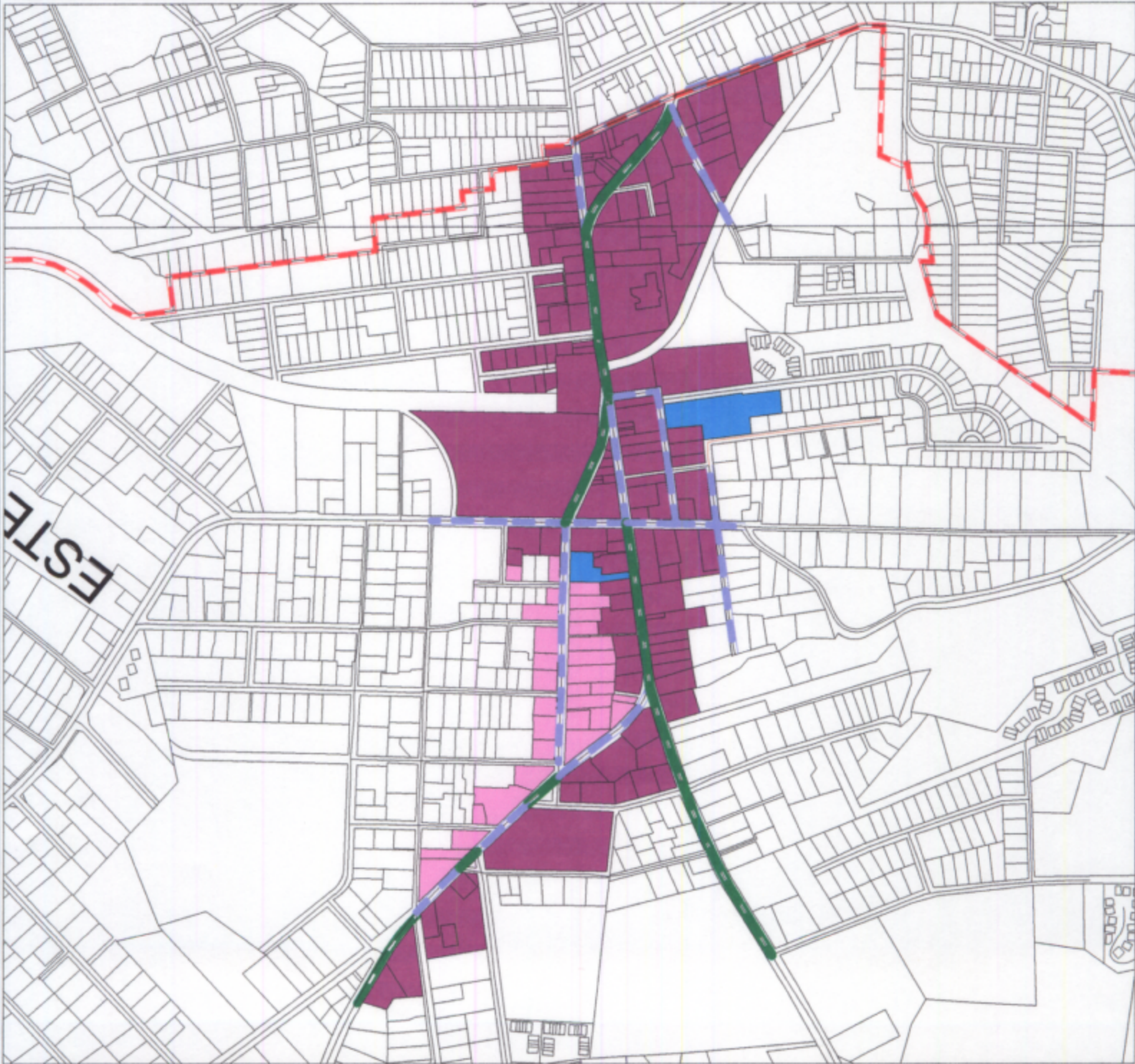
NC State Plane Coordinate System (NAD83)



TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27519

27 November 2002
Patricia McChes, Planning Department
260-7714

THIS MAP IS NOT A CERTIFIED SURVEY AND IS FOR REFERENCE ONLY
The preparator must be aware of data conditions and ultimately bear responsibility for
the appropriate use of the information with respect to possible errors, original map scale,
collection methodology, currency of data, and other conditions specific to the data.



Base Building Heights, per Draft Ordinance

- R-O-W
- 0
- 50+
- ≤50
- Streets
- Text Road Names (Major)
- Town Boundary
- 3stories
- 4-stories
- 2-stories (B-2)
- Lots in more than one zone



680 0 680 Feet

NC State Plane Coordinate System (NAD83)



TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27510

27 November 2002
Patrick McGowan, Planning Department
252-712-1124

THIS MAP IS NOT A CERTIFIED SURVEY AND IS FOR REFERENCE ONLY
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collection methodology, currency of data, and other conditions specific to the data.

