



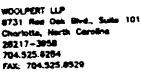
STANDARD REFERENCES

ALL CONSTRUCTION SHALL BE FOR THE LATEST EDITION OF THE ROAD AND BRIDGE CONSTRUCTION SPECIFICATIONS, STANDARD SPECIFICATIONS FOR HIGHWAYS, AND THE STANDARD SPECIFICATIONS FOR ROADS AND STRUCTURES AND THE TOWN OF CHANDLER SPECIFICATIONS.

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UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
TOWN OF OAKSBORO, NORTH CAROLINA

OWEN RESEARCH LABORATORY EXPANSION CUP



PROJECT No.	No.	DATE	REVISION
50302	1	8/22/03	PER TOWN COMMENTS DATED 8/19/03
DATE 5/7/03	2	8/22/03	PER TOWN COMMENTS DATED 8/19/2003
DRAWN JRM	3	8/18/03	PER TOWN COMMENTS DATED 8/14/2003
CHECK CDM	4	7/22/03	PER TOWN COMMENTS DATED 7/9/2003
CHECK JRM			



SP 2

STAFF REPORT

TO: Town of Carrboro Board of Aldermen

DATE: November 11, 2003

PROJECT: Conditional Use Permit to Allow a One-Time Expansion of an Existing Nonconforming Use at 350 South Old Fayetteville Road.

APPLICANT & OWNER: University of North Carolina, Chapel Hill
104 Airport Drive, Giles F. Horney Building
Chapel Hill, NC 27599

PURPOSE: The University of North Carolina at Chapel Hill (UNC) has submitted an application for a Conditional Use Permit (CUP) to allow for a one-time expansion of a nonconforming use (Use 3.220) at 350 S. Old Fayetteville Road. The project is considered an extension of a pre-existing, non-conforming use and, in this case, must be approved by the Board of Aldermen.

EXISTING ZONING: R-10, Residential

TAX MAP NUMBER: 7.116..10

LOCATION: 350 S. Old Fayetteville Road (Outside City Limits – Within Town's Extra-Territorial Jurisdiction)

TRACT SIZE: 655 acres (Entire Tract), Approximately 4 acres (Laboratory Site)

EXISTING LAND USE: 3.220, Office/Research Designed to Attract Little to No Customer or Client Traffic

PROPOSED LAND USE: 3.220, Office/Research Designed to Attract Little to No Customer or Client Traffic

SURROUNDING LAND USES: North: R-10, Chapel Hill Transit – Jones Ferry Road Park & Ride Lot
South: R-10, Vacant Land with Single-Family Homes Further to the South
East: R-10, Multi-Family Townhomes (Currently Under Construction)

West: C, University Lake

ZONING HISTORY: R-10, since at least 1993, Agriculture and Other Residential zoning designations prior to that.

RELEVANT

ORDINANCE SECTIONS: 15-124(g), Extension/Enlargement of Nonconforming Situations

15-243(c), Height of Light Poles

15-292, Flexibility in Administration Required (Parking)

15-294(d), Required Width of Driveways

15-294(b), Required Width of Parking Area Aisles

15-296(a), Vehicle Accommodation Area Surfaces

ANALYSIS

Background

The University of North Carolina at Chapel Hill (UNC) has submitted an application (**Attachment C**) for a one-time expansion of an existing, non-conforming use at 350 South Old Fayetteville Road. UNC has conducted research at this site adjacent to University Lake for over forty years (pre-dating the Town of Carrboro Land Use Ordinance) (**see Attachment A, Project Plans**). The site is commonly referred to as the Owen Research Laboratory (ORLab). As stated, ORLab has operated at this location since before the adoption of a Land Use Ordinance by the Town of Carrboro, and the use has never received a land use permit. Once Carrboro gained zoning control over the subject area, and later instituted residential zoning on the subject site, the research facilities were allowed to continue operating as a pre-existing use. The Town Attorney and Zoning Division staff thus determined that the proposed project involves an expansion of a legal, nonconforming use and must be reviewed subject to the requirements of Section 15-124(g) of the Land Use Ordinance (LUO). Section 15-124(g)(6), specifically, requires that the permit for this project must be approved by the Board of Adjustment except in a situation where the permit would otherwise require a Conditional Use Permit (CUP). This project would otherwise require a CUP. Therefore, the permit-issuing authority in this case is the Board of Aldermen.

The proposed building is 4,941 square feet in size and eighteen-feet (18') high. It would be erected alongside the existing buildings on the site generally located southeast of the largest buildings on the site, between those buildings and the floodplain off Morgan Creek (**see Attachment A, Project Plans**).

The applicant requests that the Board of Aldermen consider, deliberate, and make a decision on the proposed CUP to allow a one-time expansion of the legal, nonconforming research facilities (Use 3.220) located at 350 South Old Fayetteville Road.

Compliance with the Provisions of Section 15-124(g)

Section 15-124(g) of the LUO allows for the expansion of legal, nonconforming uses if the project complies with certain special restrictions and regulations. The special regulations are contained in Section 15-124(g)(1-6) of the LUO. These regulations are in addition to the standard LUO provisions regulating parking, shading, setbacks, etc. The regulations of Section 15-124(g) are designed to allow legal, nonconforming facilities to expand and grow while also placing limitations and tougher standards on the expansion to lessen the impacts to surrounding property owners. The applicant submitted a written statement regarding the ways in which the project complies with these requirements (**Attachment D**). Following is a staff analysis of the information submitted by the applicant with regard to the special requirements that legal nonconforming uses must meet:

15-124(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:

- (1) The area of the enlargement of the nonconforming use does not exceed the maximums established below:
 - (a) Not applicable (applies to buildings < 1,000 square feet);
 - (b) Not applicable (applies to buildings < 5,000 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.

COMPLIANCE - The existing nonconforming use operates within thirteen existing buildings totaling 15,291 square feet of building space. Using the above formula, a 4,973 square foot addition could be constructed. The proposed addition is for 4,941 square feet.

- (2) No additional outdoor storage is associated with the expansion.
COMPLIANCE – The applicant’s submittal includes a statement saying that “no additional outside storage is proposed.”
- (3) The nonconforming use, when expanded, does not generate noise that tends to have an annoying or disruptive effect upon uses located on adjacent lots.
COMPLIANCE – The applicant’s submittal includes a statement saying that “the nonconforming use, when expanded, will not generate noise that tends to have an annoying or disruptive effect upon uses located on adjacent lots.” The existing nonconforming use already generates some noise by its nature (animal-related research). The proposed expansion

will add some number of additional animals to the facility, but the applicant feels that there will not be an increase to the current levels of noise.

- (4) At least “B” level screening is provided in conjunction with the expansion (“A” level screening shall be provided if required under (Article XIX).
COMPLIANCE – The lot on which the facilities reside, outside of the developed area, is surrounded by undisturbed woodlands constituting a type “A” screen. The only required screening, per the LUO, is a type “B” screen to the east, where, as described, a type “A” screen exists.
- (5) The expansion does not involve the addition of any new drive-in windows.
COMPLIANCE – No drive-in windows currently exist and none are proposed.
- (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 (LUO) 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 nonconformity’s would thereby be created.
COMPLIANCE – THE PERMIT ISSUING AUTHORITY MUST MAKE A FINDING REGARDING THIS ITEM – Staff believes that the project complies with most, but not all, current standards of the LUO with regard to this item. Specifically, this staff report identifies areas where the project conceivably could comply with provisions of the LUO where the plans do not currently exhibit compliance (i.e.: parking aisle width, driveway width, and height of light poles). The staff report will discuss these items individually within the appropriate section of the report found below.

Given this situation, members of the Board must either:

- 1) *approve the CUP based upon a finding that the project complies with all the applicable requirements of the LUO with which it is reasonable to comply, or*
- 2) *approve the project while including conditions on the CUP effectively requiring compliance with one or more sections of the LUO for which the project does not currently comply, or*
- 3) *deny the project based on noncompliance with one or more provisions of the LUO.*

With regard to the dimensional nonconformity provision, please note that no additional dimensional nonconformities are being created.

- (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.

COMPLIANCE – THE PERMIT ISSUING AUTHORITY MUST MAKE A FINDING REGARDING THIS ITEM – The applicant’s submittal includes a statement that “the applicant does not believe there are any disadvantages inherent in the expansion of the nonconforming use due to the extreme distance to the surrounding properties.”

The proposed expansion of the legal nonconforming use appears to meet the requirements of Section 15-124(g)(1-5) of the LUO. If the permit-issuing authority (Board of Aldermen) makes a finding that the project also complies with Section 15-124(g)(6) of the LUO, then a CUP authorizing the expansion project can be issued. As a second option, the permit-issuing authority may choose to make a finding regarding compliance with Section 15-124(g)(6) with regard to certain aspects of the plans not in compliance with the LUO, while at the same time requiring that one or more currently non-complying aspects of the plans be brought into compliance through the placement of one or more conditions on the CUP. The applicant submitted a letter explaining why they feel the project should be approved as currently planned and why they feel that they have complied with all aspects of the LUO for which they can reasonably comply (**Attachment E**). Finally, the permit-issuing authority may choose to deny the project based on noncompliance with one or more aspects of the LUO, per Section 15-124(g)(6). The specific provisions, mentioned above, will be further described later in the staff report.

Vehicular Access, Parking, and Traffic

Driveway & Parking Areas

The only current means of ingress and egress for the 350 South Old Fayetteville Road property is via an access road located off Old Fayetteville Road extension (see **Attachment F, Area Map**). This road splits near the its end with one driveway leading

to OWASA facilities located on and adjacent to University Lake and the other driveway leading to the ORLab site. The OWASA access driveway runs alongside University Lake parallel to the ORLab parking area, and is located between seventeen-feet (17') and 25' to the west of the ORLab parking area aisle. As a safety measure, the applicant is proposing to cut an existing fence on the south side of the parking area and place an eighteen-foot (18') wide double-swing gate in this location for emergency access in case their driveway were to become non-navigable due to a fallen tree or some similar situation.

For purposes of this analysis, staff will concentrate on the driveway leading to the ORLab, since this is the portion of the site where additional development is proposed at this time. With that in mind, please note that the existing driveway is paved, but it is only approximately twelve-feet (12') wide. As discussed with the applicant during the review process, Section 15-294(d) of the LUO requires an eighteen-foot (18') width for driveways intended for two-way traffic. The applicant indicated that they do not wish to widen the driveway to an eighteen-foot (18') width. They cited the fact no additional traffic is expected to result from the proposed construction (no new employees), the negative environmental impact of additional impervious surface on the site as well as the disturbance of well-established slopes on either side of the existing driveway, and the fact that the existing driveway has functioned perfectly well for over 40 years (**see Attachment E**). While it must be pointed out that it does appear physically possible to widen the driveway, staff generally is in agreement that requiring the applicant to do so in this case may be more problematic than any potential positive resulting benefit. To that end, staff feels that it may be reasonable, given the details of this specific situation, for the Board to find that strict adherence to Section 15-294(d) should not be required in this case and that the existing driveway should be allowed to remain in place as is. It should be noted, however, that this recommendation should not be seen as precedent setting. Any similar future situation that may arise will be considered on its own merits, irrespective of this specific situation.

A related matter concerns the State of North Carolina Fire Code (NCFC), which requires that access driveways be twenty-feet (20') wide for fire safety purposes. However, per North Carolina General Statutes (143-135.1 & 58-31-40) and since this is state-owned property, the Town of Carrboro is not the party responsible for enforcing the NCFC. Instead, the North Carolina Department of Insurance (DOI) is the agency responsible for granting final approval to actually construct the building as well as for inspecting the building after construction. As such, DOI is the party responsible for enforcing the NCFC. Because of this, staff contacted DOI for further clarification on how they would view the situation (i.e.: to see whether they would require the road to be widened to the 20' standard of the fire code regardless of how the Board of Aldermen chose to view the matter). Please find DOI's response comments attached (**Attachment G, Page 1 and 2**). Since the Town's Fire Department is responsible for responding to an emergency situation on this property, DOI essentially states that they would defer to the local fire chief to determine whether a potential fire safety hazard exists in absence of widening the driveway. Also attached, please find correspondence between the applicant and UNC's Fire Marshall, Billy Mitchell (**Attachment G, Page 3**). In summary, Mr. Mitchell finds

that the existing situation is acceptable, so long as an additional fire hydrant is added to the site, which the applicant has already included on the plans.

After receipt of this information, the Town's Fire Chief, Rodney Murray, and his staff further considered the matter and provided a memo for the Board's consideration (**Attachment G, Page 4**). In summary, Chief Murray determined that the Fire Department likely would access the site through the OWASA service drive side of the site in an emergency and that the existing situation does not appear to present a fire safety hazard. To that end, the Fire Department has indicated that they will be comfortable suggesting to DOI that the existing situation be allowed to remain as is.

With this description of the driveway situation as background and context, staff recommends that the Board:

- Approve the project while finding that the applicant has complied with Section 15-294(d) of the LUO to the extent that it is reasonable to do so.

However, the Board may choose to select one of two other options, detailed below:

- Approve the project with the following condition included on the permit: that, on the construction plans for the project, the applicant must widen the existing driveway and other applicable areas on the site to an eighteen-foot (18') paved width, per Section 15-249(d) of the LUO, or
- Deny the project based on noncompliance with Section 15-294(d) of the LUO.

Similarly, the parking aisle width at the southern end of the existing parking area is only 23' wide for the last two parking spaces, while Section 15-294(b) of the LUO requires a width of 24' (**see Attachment A**). Again, the applicant stated that they do not wish to widen the parking aisle to meet the current standard of the LUO (**see Attachment E**). Staff is of the opinion that it appears reasonably possible to modify the plans so as to comply with this section of the LUO. Some amount of grading would seem to make it possible to create additional width on the west side of the parking aisle, or, alternatively, some amount of grading would seem to make it possible to slightly relocate the parking spaces one-foot (1') to the east. Because of this, staff is requesting that the Board of Aldermen choose one of the following options:

- Approve the project while finding that the applicant has complied with Section 15-294(b) of the LUO to the extent that it is reasonable to do so, or
- Approve the project with the following condition included on the permit: that, on the construction plans for the project, the applicant must widen the existing parking aisle to a width of 24-feet, per Section 15-294(b) of the LUO, or
- Deny the project based on noncompliance with Section 15-294(b) of the LUO.

If the Board chooses to require the widening of the driveway and/or parking aisle, then it should be noted that the applicant will also need to revise the drainage/stormwater plan for the project in order to address the water quantity and water quality standards of Section 15-263 of the LUO related to the resulting, additional impervious surface (drainage is discussed at length later in this report, but it was seen as appropriate to mention this information here as it is directly related to the information described above). To that end, staff recommends that the following condition be attached to the CUP, should the Board of Aldermen choose to approve the construction of the project:

- That the applicant must revise the drainage/stormwater plan for the project to exhibit compliance with Section 15-263 of the LUO related to the additional, resulting impervious surface added to the site by conditions imposed on the CUP by the Board of Aldermen. If these revisions constitute a substantial change to the site design, then the plans must be brought back before the Board of Aldermen for consideration through the Minor Modification process.

Except for the situations described above, the plans do comply with all standards of the LUO relating to driveways, parking aisles, and parking space dimensions.

Number of Parking Spaces

The applicant is requesting relief from the parking standards contained in Section 15-291 of the LUO. Specifically, Section 15-291 recommends one (1) parking space per every 400 square feet (sf) of building area on the site. By this formula, the proposed development would need 50 parking spaces ($20,064 \text{ sf} / 400 \text{ sf} = 50 \text{ spaces}$). The applicant has included notes on the plans related to the request for a reduction in the number of parking spaces required. By way of square footage (sf) calculations related to the amount of building space actually used by employees, the applicant has demonstrated that only eighteen (18) parking spaces should be required for the project [$5,825 \text{ sf}$ of employee based building space/ $400 \text{ sf} = 15 \text{ spaces}$, plus 6 maximum employees per shift in other buildings generally used for storage/(1 space for every 2 employees on shift) = 3 spaces, for a total of 18 spaces]. Additionally, the applicant submitted a 'parking justification statement' reflecting this same information (**Attachment H**). The statement also provides that "based on years of experience there is adequate parking to meet the demands of the facility."

Per 15-292(a) of the LUO, the permit-issuing authority may allow a deviation from the presumptive standards if it makes the following finding: that such a deviation is more likely to satisfy the standard set forth in 15-291(a). Section 15-291(a) requires that all developments shall provide a sufficient number of parking spaces to accommodate the number of vehicles likely attracted to the development. Based on the evidence submitted by the applicant, staff is of the opinion that eighteen (18) parking spaces should be sufficient to serve the proposed development. Therefore, staff recommends that the following condition be added to the CUP, should the Board choose to grant the permit:

- That the Board hereby finds that eighteen (18) parking spaces shall be sufficient to serve the proposed development based on evidence submitted by the applicant

related to the actual square footage of buildings utilized by employees and related to the statement submitted by the applicant regarding their determination of parking needs for the site being based on years of experience operating the site.

Transportation Impact

The applicant submitted a Transportation Impact Statement (TIS) summarizing the expected traffic impacts of the proposed project (**Attachment I**). In summary, the applicant suggests that there will be no traffic impact associated with the project. While new building space is proposed, there is no intention to add any employees to the existing staff. The new building space would be an extension of the existing facilities and the existing staff would make use of the space. Consequently, no roadway or other transportation-related improvements outside the development are proposed or requested at this time.

Conclusion:

The project complies with all LUO provisions relating to parking, traffic, and transportation, with the exception of the specific situations described above. As a result, the Board of Aldermen must decide to: 1) find that the applicant has complied with the LUO where it is reasonable to do so, and grant the CUP, or 2) grant the CUP with one or more conditions attached related to bringing certain aspects of the project into compliance with the LUO, or 3) deny the project based on non-compliance with one of more of the applicable sections of the LUO.

Tree Protection, Screening and Shading

Tree Protection

Section 15-316 of the LUO specifies that all trees greater than 18" in diameter and all rare tree species must be preserved, to the extent practicable. An evaluation of the site reveals that there are 58 specimen trees in the vicinity of the developed portion of the site. Of these 58 trees, it will be necessary to remove nine (9) as a part of the proposed construction, as indicated in the applicant's tree removal justification statement (**Attachment J**). Numerous other trees are located in the vicinity of the site, some of which must also be removed. This information is detailed in the 'tree table' included on Sheet LP4 of the plans (**Attachment A, Page LP4**). A total of 150 trees were identified near the site, of which 22 must be removed. The removal of these trees is unavoidable given the limited opportunities for placement of a new building on the site. In short, between the locations of the existing buildings and the floodplain demarcation line off Morgan Creek, very few locations remain where the building may be placed.

Also of note, at staff's request, the applicant included a pervious pavement treatment in the northwest corner of the parking lot for the project. The LUO requires that the applicant pave portions of the parking area not currently paved. Staff had some concerns with the placement of pavement within the dripline of trees in the area, and the pervious pavement was seen as a way to hopefully extend the life of the trees in this area of the site. The applicant desires to attempt to save these trees and has included pervious pavement in these specific areas of the parking where no pavement currently exists. In

summary, the applicant has shown tree protection fencing in the areas where trees will need to be protected during construction and the project does comply with the tree protection provisions of the LUO.

Screening

The required screenings for this project are based on the requirements of Section 15-308 (rather than the auxiliary requirement of Section 15-124(g)(4) mentioned previously). For this project, the only required screening is a type "B" screen to the east, where a multifamily townhome project is currently under construction. In this direction, as well as all other directions, an existing type "A" screen is in place. This type "A" screen consists of a large, undisturbed woodland area, which surrounds the entirety of the lot and University Lake. Therefore, all screening requirements for the project have been satisfied.

Shading

Section 15-317 of the LUO requires that 20% of all vehicle accommodation areas be shaded with shade trees complying with the recommendations of Appendix E of the LUO. There is 6,900 square feet of vehicle accommodation area on the site. Twenty percent (20%) of this area, or 1,380 square feet, must be shaded by existing or proposed trees. Though numerous existing trees will be retained in the vicinity of the vehicle accommodation area, the applicant chose to include four (4) new Willow Oak trees near the parking area in order to satisfy the requirement. The proposed trees are expected to shade 1,416sf (4 trees at $\frac{1}{2}$ credit of 354sf each = 1,416sf), and the shading requirements of the LUO therefore have been met for this project.

Conclusion:

The proposed project complies with the requirements of the LUO pertaining tree protection, screening, and shading.

Drainage, Grading & Floodplain & Stream Buffer, and Erosion Control

Drainage

Section 15-263 of the LUO establishes storm water management criteria that must be met for each project requiring an SUP or CUP. Section 15-263 requires an evaluation of upstream and downstream water quality and water quantity impacts as a result of the proposed development. Mitigation measures designed to eliminate anticipated impacts must be implemented and explained. The construction activities associated with the proposed project will result in an increase in the amount of impervious surface on the site. Generally, drainage on this site will be handled by a system of catch basins and yard inlets, designed to capture stormwater and direct it via an underground pipe system toward a proposed 'stormwater infiltration trench' located on the south side of the buildings on the site (**Attachment A, Page GP5**). Stormwater in excess of the first inch of runoff would bypass the proposed infiltration trench and disperse toward Morgan Creek via a proposed level spreader. The Town Engineer has reviewed and approved the drainage calculations, stormwater plan, and the 'Truth in Drainage' statement, as indicated in the attached letter from the Town Engineer (**Attachment K**).

On a related note, relative to the Town satisfying state requirements pertaining to the National Pollutant Discharge Elimination System (NPDES) Phase II permit, the following conditions need to be placed on the permit:

- That the applicant shall provide to the Zoning Division, prior to the release of the certificate of occupancy for the project or before the release of a bond if some features are not yet in place at the time of the release of the certificate of occupancy, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features must be clearly delineated in a data table. The data must be tied to horizontal controls.

Grading & Floodplain & Stream/Lake Buffers

The site is bounded on two (2) sides by water. University Lake sits directly to the west of the developed portion of the site, and Morgan Creek runs northeasterly from the lake past the developed portion of the site. The appropriate 'University Lake Buffer' has been shown on the plans at the point of the 100-year floodplain off of the lake. As for Morgan Creek, the appropriate 100-year floodplain line has been demarcated on the plans and labeled as a 'stream buffer and flood easement' (in this case, the 100-year floodplain acts as the stream buffer).

Some clearing, excavating, and filling is necessary for the placement of the building on the property as well as for the installation of stormwater facilities. These activities do not involve a substantial amount of disturbance on the site, but it should be pointed out that a relatively small amount of the work will take place within the floodplain off of Morgan Creek. The Town Engineer reviewed the applicable provisions of the LUO in this regard and determined that the work proposed is acceptable. The building itself will not be located within the 100-year floodplain.

Erosion Control

Since the project will be constructed on state-owned property, it is outside the purview of the Orange County Erosion Control Office (OCEC). Staff has spoken with OCEC and confirmed that they do not have authority to monitor erosion control in this case. Because of this, responsibility for erosion control for the project falls to the North Carolina Department of Environment & Natural Resources (NCDENR). Plans have been forwarded to this agency. NCDENR's policies do not require formal issuance of a permit for sites where the amount of disturbance is less than one (1) acre; however they have indicated that they will monitor erosion control measures on the site. Even though no permit is required, the applicant is bound to control sediment runoff on the site per the North Carolina General Statutes, and NCDENR will have authority to require corrections if and when a situation presents itself. The Town Engineer also will comment further on this matter at the construction plan level if it is seen as necessary. Also, Town staff and the Town Engineer will consistently monitor the site during construction.

Conclusion:

All of the Land Use Ordinance requirements pertaining to drainage, grading, floodplains, stream buffer, and erosion control have been met by the applicant.

UtilitiesWater & Sewer

No new OWASA lines are being provided as part of this project. In order to serve the new building, the applicant proposes to simply connect to existing service lines already on the property. OWASA reviewed the plans and determined that the existing water and sewer facilities are adequate to serve the proposed expansion. OWASA stated that it is acceptable for the project to receive a CUP, but that they will need to review the construction plans for the project before granting final approval (this is their customary way of reviewing projects – nothing is unusual about this situation).

Lighting

Section 15-242 and Section 15-243 of the LUO governs exterior lighting requirements. Section 15-242 requires that exterior lighting be provided for the safety of the general public. The existing lights on the site do satisfy this requirement. With regard to Section 15-243, the applicant has shown that the lights do not exceed the 0.2 footcandle limitation set forth in Section 15-243(d); however, the lights do exceed the height limitation of fifteen-feet (15'), as described in Section 15-243(c) of the LUO (lights are on salt-treated poles between 22' and 25' high). Staff discussed this matter with the applicant during the review of the project and the applicant has indicated that they do not desire to modify the lights on the site. In part, they cited the fact that this is an existing situation and that the lights do not exceed the 0.2 footcandle limitation at any property line (**see Attachment E**).

Since the lights represent an existing situation, the Board may choose to simply find that it is acceptable for the existing lights to remain in place, per Section 15-124(g)(6)(a). To explain further, if new lights were proposed, it would be necessary for them to be in compliance with the current standards of the LUO, and the Board may feel that it is reasonable to only require compliance with regard to new lights. For this project, no new lights are proposed; so, in essence, the aforementioned conclusion would simply allow the existing lights to remain in place.

Alternatively, if the Board is of the opinion that it appears reasonably possible for the applicant to lower the existing lights to meet the current standard, and the Board desires to do so, then the Board may place a condition on the permit to require such action by the applicant. Of note, a higher total number of lights would be necessary for there to be an equivalent amount of security lighting on the site if the applicant is required to lower the light fixtures. As a reminder and for the Board's consideration regarding this matter, the site sits relatively deep within the woods and is significantly buffered by undisturbed woodlands. In recent memory, the Zoning Division has not received any formal complaints about the lighting on this site from neighboring property owners or tenants.

While it must be pointed out that it does appear physically possible to lower the height of the existing light poles and to add additional, new light poles where necessary, staff generally is in agreement that requiring the applicant to do so in this case may be more problematic than any potential positive resulting benefit. To that end, staff feels that it may be reasonable, given the details of this specific situation, for the Board to find that strict adherence to Section 15-243(c) should not be required in this case and that the existing light poles should be allowed to remain in place as is. It should be noted, however, that this recommendation should not be seen as precedent setting. Any similar future situation that may arise will be considered on its own merits, irrespective of this specific situation.

With this description of the lighting situation as background and context, staff recommends that the Board:

- Approve the project while finding that the applicant has complied with Section 15-243(c) of the LUO to the extent that it is reasonable to do so.

However, the Board may choose to select one of two other options, detailed below:

- Approve the project with the following condition included on the permit: that, on the construction plans for the project, the applicant must reduce the height of all site lighting around the portion of the lot containing the Owen Research Laboratory so as to comply with Section 15-243(c) of the LUO. Further, a detail drawing for the proposed lights must be included on the construction plans, or
- Deny the project based on noncompliance with Section 15-243(c) of the LUO.

Sanitary Services

The plans do not propose any new dumpster or other refuse or recycling facilities (the applicant has indicated that they will simply make use of existing facilities on the site). Since UNC handles its own refuse and recycling needs, the Town of Carrboro Public Works Department did not review nor comment on this matter.

Electric Power & Natural Gas

Duke Power Company and Public Service Natural Gas have provided letters to the Zoning Division stating that they are able and willing to serve the proposed new building.

Conclusion:

Letters from all utility companies that would serve the proposed building have been received, and with the exception of the situation regarding lighting described above, the project complies with all applicable sections of the LUO for utilities.

Architecture – Exterior Design

The proposed expansion will consist of a one-story (1-story), eighteen-foot (18') tall building, as illustrated on Sheet BP9 of the plans (**Attachment A, Page BP9**). The

structure is 4,941 square foot in size, and it would include painted, metal exterior walls and a galvanized metal roof.

Miscellaneous Issues

Neighborhood Information Meeting

A 'neighborhood informational meeting' was not held for the project. Staff did discuss the recommended meeting with the applicant, but the applicant chose to not conduct such a meeting before the public hearing (**Attachment L**).

Advisory Boards Review

The Town of Carrboro Planning Board, Environmental Advisory Board, Appearance Commission, and Transportation Advisory Board reviewed the project on October 16, 2003. Please find recommendation statements from each respective board attached (**Attachment M**).

Letter from Citizen

The Zoning Division received one (1) letter from a citizen (written on behalf of a Homeowner's Association) regarding the project. The letter is included as **Attachment N**.

RECOMMENDATION

Discussion Regarding Approval/Denial Procedure

The Board of Aldermen has three (3) options regarding the issuance of a CUP for the proposed project.

Firstly, the Board may approve the CUP as presented, while finding that the applicant complied with all sections of the LUO to the extent that it was reasonable to do so, in accordance with the language of Section 15-124(g)(6)(a). If the Board so determines, then staff recommends that certain conditions (detailed under 'Administration's Recommendation') be attached to the CUP. Specifically, staff recommends approval with the following conditions: #'s 1(modified to reflect the Board's comfort with reasonable compliance), 2, 5, and 6.

Secondly, the Board may approve the CUP, while placing one or more conditions on the permit related to bringing the plans into compliance with the sections of the LUO described below in option #3. A specific version of this second option amounts to the Administration's Recommendation, fully described below.

Thirdly, the Board may deny the CUP because the project does not comply with one or more sections of the LUO (previously described and listed below), with which the Board feels the project could reasonably comply. The noncompliance issues that the Board must consider are as follows:

- Section 15-294(d): Required Driveway Width of Eighteen-Feet (18') for Driveways Serving Two-Way Traffic;
and/or
- Section 15-294(b): Required Width of 24' for Parking Aisles;
and/or:
- Section 15-243(c): Maximum Height of Fifteen-feet (15') for Light Fixtures.

Please note: If the Board approves the CUP, then the Board needs to address each of the three (3) noncompliance issues listed above by either 1) finding that the applicant has complied to a reasonable extent with the applicable section of the LUO, or 2) by placing a condition on the permit that would in essence require compliance with the applicable section of the LUO.

Administration's Recommendation

The Administration recommends that the Board of Aldermen approve the Conditional Use Permit request for a one-time expansion of a nonconforming use to allow the construction of a 4,941 square foot building (Use #3.220), subject to the following conditions:

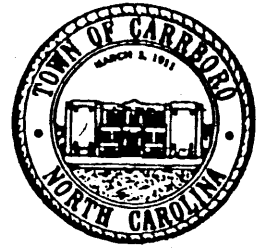
1. That, per Section 15-124(g)(6)(a) of the LUO, the Board hereby finds that the project complies with the LUO to the extent it is reasonable to do so, except that the Board hereby requires that the project shall comply with all conditions that follow, one or more of which relate to current, non-complying situations;
2. That, per Section 15-124(g)(6)(b) of the LUO, the Board hereby finds that, on balance, the benefits to the neighborhood resulting from the improvements required in conjunction with the expansion of the nonconforming use outweigh the disadvantages inherent in the expansion of the nonconforming use;
3. That, on the construction plans for the project, the applicant must widen the existing parking aisle to a width of 24-feet, per Section 15-294(b) of the LUO;
4. That the applicant must revise the drainage/stormwater plan for the project to exhibit compliance with Section 15-263 of the LUO related to the additional, resulting impervious surface added to the site by conditions imposed on the CUP by the Board of Aldermen. If these revisions constitute a substantial change to the site design, then the plans must be brought back before the Board of Aldermen for consideration through the Minor Modification process;
5. That the Board hereby finds that eighteen (18) parking spaces shall be sufficient to serve the proposed development based on evidence submitted by the applicant related to the actual square footage of buildings utilized by employees and related to the statement submitted by the applicant regarding their determination of

parking needs for the site being based on years of experience operating the site;
and

6. That the applicant shall provide to the Zoning Division, prior to the release of the certificate of occupancy for the project or before the release of a bond if some features are not yet in place at the time of the release of the certificate of occupancy, Mylar and digital as-builts for the stormwater features of the project. Digital as-builts shall be in DXF format and shall include a base map of the whole project and all separate plan sheets. As-built DXF files shall include all layers or tables containing storm drainage features. Storm drainage features must be clearly delineated in a data table. The data must be tied to horizontal controls.

TOWN OF CARRBORO

ATTACHMENT "C"



LAND USE PERMIT APPLICATION

DATE: 5-20-03

FEE: \$1,247.05

APPLICANT: University of North Carolina at Chapel Hill Facilities Planning Project Contact: Jill Coleman		OWNER: University of North Carolina at Chapel Hill	
ADDRESS 103 Airport Drive Giles F. Horney Building		ADDRESS: 103 Airport Drive Giles F. Horney Building	
CITY/STATE/ZIP Chapel Hill, NC 27599-1090		CITY/STATE/ZIP Chapel Hill, NC 27599-1090	
TELEPHONE/FAX: PHONE: 919-843-3246 FAX: 919-962-9103		TELEPHONE/FAX: PHONE: 919-843-3246 FAX: 919-962-9103	
LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: Same		TAX MAP(S), BLOCK(S), LOT(S): TMBL: 7.116.10 PIN: 9778109925	
PROPERTY ADDRESS: 350 S. Old Fayetteville Road Chapel Hill, NC 27516		PROPOSED LAND USE & USE CLASSIFICATION: J.120	
PRESENT LAND USE & USE CLASSIFICATION: J.120		LOT AREA: 4 Acres Square Feet	
ZONING DISTRICT(S) AND AREA WITHIN EACH (including Overlay Districts): R-10			
# OF BUILDINGS TO REMAIN 13		GROSS FLOOR AREA 15,291 (existing) square feet	
# OF BUILDINGS PROPOSED 14 additional		GROSS FLOOR AREA (of proposed building or proposed addition) 4,941 square feet	

NAME OF PROJECT/DEVELOPMENT: Owen Research Laboratory Expansion

TYPE OF REQUEST	INFORMATION REQUESTED (Refer to Attached Key)
SUBDIV. FINAL PLAT	1, 18, 19, 21, 23, 31, 33, 34, 36
X CONDITIONAL USE PERMIT (CUP)	1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, 36
CUP MODIFICATION	SAME AS CONDITIONAL USE PERMIT (CUP)
SPECIAL USE PERMIT (SUP)	1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, 36
SUP MODIFICATION	SAME AS SPECIAL USE PERMIT (SUP)
ZONING PERMIT (Project)	1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, 32, 34, 35, 36
ZONING PERMIT (Building) Residential Infill & Additions	9, 10, 22, 24, 34, 36 (also see "Building Permit Review - Residences Only" checklist)
SIGN PERMIT	1, 10, 13, 14, 17, 20, 36
VARIANCE	4, 5, 10, 20, 29, 34, 36 Attachment A
APPEAL	4, 5, 36, Attachment B
SPECIAL EXCEPTION	1, 4, 5, 8, 10, 20, 35, Attachment C

APPLICANT: _____

DATE: _____

OWNER: Anna A. WuDATE: 5/20/03

Attachment "D"

Compliance With Regard To the Enlargement of Nonconforming Use

In reference to Section 15-124 (g) of the Town of Carrboro Land Use Ordinance, the proposed project is consistent with the requirements of this section as stated below:

- (1)
 - a. Section not applicable.
 - b. Section not applicable.
 - c. Per the section the allowable expansion area cannot exceed $2,400 + (0.25)(\text{existing use area of } 15,291 \text{ sq.ft.}) = 4,973 \text{ sq.ft.}$ or 5,000 square feet, whichever is less. The proposed use expansion is 4,941 sq.ft. which is less than the allowable 4,973 sq.ft.
- (2) No additional outside storage is proposed.
- (3) The nonconforming use, when expanded, will not generate noise that will have an annoying or disruptive effect upon uses located on adjacent lots
- (4) Existing trees surrounding the site provide "A" level screening
- (5) The expansion will not involve the addition of a drive-in window
- (6)
 - a. All applicable sections of the chapter will be complied with and the construction of the building will not result in additional dimensional nonconformities.
 - b. The applicant does not believe there are any disadvantages inherent in the expansion of the nonconforming use due to the extreme distance to the surrounding properties.