

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO ESTABLISH A NEW OFFICE - RESIDENTIAL MIXED USE (OR-MU) DISTRICT, AND REZONE SPECIFIED PROPERTIES FROM THE R-2 DISTRICT TO THE NEW OR-MU DISTRICT

[ALTERNATE VERSION, CONSISTENT WITH STGL PROPOSAL]

The Board of Aldermen of the Town of Carrboro Ordains:

Section 1. Article IX of the Carrboro Land use Ordinance is amended to include the following new Section 15-140.1:

Section 15-140.1 Office-Residential Mixed Use District

- (a) There is hereby created an Office-Residential Mixed Use (OR-MU) zoning district. The purpose of this district is to provide for mixed use developments, i.e. developments that contain both residential and non-residential elements, within areas that are near the downtown commercial districts.
- (b) Any lot within the OR-MU district that exists on the effective date of this section or that is hereafter created may be developed and used for those purposes within the 3.000 classification that are permissible within the B-2 zoning district, subject to the same permitting requirements and other applicable regulations of this chapter, just as if the property were zoned B-2.
- (c) Any lot or tract within the OR-MU district may be developed as a mixed use project in accordance with the provisions of this subsection.
 - (1) Development of property under this subsection requires the issuance of a conditional use permit by the Board of Aldermen in accordance with the applicable provisions of this chapter.
 - (2) A mixed use project approved under this subsection must have both a residential and a nonresidential component.
 - (3) At least one-half but not more than two-thirds of the gross floor area of the mixed use development shall consist of residential uses listed in use classifications 1.100, 1.200, 1.300, or 1.400, 1.510 (hotels and motels) and 1.520 (tourist homes and other temporary residences), provided that use classifications 1.510 and 1.520 shall not comprise more than one-third of the residential component. However, the residential component of the mixed use development may be increased to ninety percent of the floor area of the mixed use development if the developer donates to a non-profit agency engaged in providing affordable housing at least ten percent of the total acreage within the development and enters into an enforceable agreement with such agency to construct on such land and convey to the agency, at not more than the developer's cost, the number of housing units for which the agency obtains a permit. For purposes of this subsection, the phrase "within the development" means within the area covered by the conditional use permit issued for the mixed use development as well as any adjacent property that is or was owned by the developer of the mixed use project and that is conveyed to a non-profit agency and developed for affordable housing as described herein, even if such other area is not located with the Town of Carrboro.

- (4) The permissible residential density within the mixed use development shall be calculated as if the development were zoned R-3, except that the density shall be calculated as if the property were zoned R-2 if the developer conveys at least ten percent of the land within the development to a non-profit agency and constructs on that land affordable housing as described in subsection (c)(3) above. For purposes of this subsection, if land that is not located within the Town of Carrboro is regarded as “within the development” as that phrase is defined in subsection (c)(3) above, then such area shall be considered part of the development for purposes of calculating the permissible residential density under this subsection.
- (5) Subject to the other provisions of this subsection, the dimensional and other requirements of this chapter applicable to the R-3 district shall apply to a mixed use development permitted under this section. However, the maximum height of buildings within the mixed use development, shall be four stories, except that a fifth story shall be permitted if the developer conveys at least ten percent of the land within the development to a non-profit agency and constructs on that land of affordable housing as described in subsection (c)(3) above. Notwithstanding other provisions of this chapter, any parking levels that are constructed underneath a building within a mixed use development and that are at least in substantial part constructed below the ground service levels shall not be regarded as “stories” for purposes of the height limitations established herein.
- (6) Permissible uses within the commercial component of the mixed use shall be those listed in the following use classifications within the Table of Permissible Uses: (i) use classification 3.100; (i) use classifications 2.110, 2.112, 2.120, 2.130, 2.150, 2.210, 2.220, provided that such uses do not comprise more than fifty percent of the total commercial space within the mixed use development; and (iii) restaurant uses 8.100, 8.200, and 8.500, so long as any one restaurant business does not occupy more than 1,500 square feet of gross floor area and so long as such restaurant uses do not operate during the hours of 2:00 a.m. to 6:00 a.m.
- (7) A mixed use development may be constructed in phases as provided in Section 15-61. However, the phasing plan shall ensure that, as buildings are constructed and occupied, the relative mix of residential and commercial floor space remains substantially consistent with the percentages approved in the plans.
- (8) If portions of the mixed use development are subdivided, the final plat shall contain notations indicating any limitations on uses or the sequencing of development created as a result of approval of the development as a mixed use under this section.

Section 2. The Official Zoning Map is hereby amended to change the zoning classification of the following properties from R-2 to OR-MU:

GISTMBL	OWNER	SITEADDRESS
7-92-J-9	SOUTHERN EQUIPMENT COMPANY	219 GUTHRIE AVE
7-92-J-9E	STGL LLC	203 GUTHRIE AVE
7-92-I-10	PENDERGRAPH HOWARD JR	120 S MERRITT MILL RD
7-92-I-11	CHILTON MARK H	122 S MERRITT MILL RD

7.92.J.12	JACKSON MARIAN C	124 S MERRITT MILL RD
7.92.J.9G	STGL LLC	126 S MERRITT MILL RD
7.92.J.9E	STGL LLC	203 GUTHRIE AVE
7.92.J.11A	HUNT SAMUEL III	200A S MERRITT MILL RD
7.92.J.9J	STGL LLC	200 GUTHRIE AVE
7.92.J.11B	HUNT R SAMUEL III	200 S MERRITT MILL RD
7.92.J.2	GATTIS WILLIAM P	104 GUTHRIE AVE
7.92.J.1	GATTIS MARTHA	106 GUTHRIE AVE
7.92.J.27	UNKNOWN (Ravine below Knolls Street neighborhood)	

Section 3. The Official Zoning map is hereby amended to change the zoning classification of the following properties from R-2 to R-7.5:

GISTMBL	OWNER	SITEADDRESS
7.92.K.20	CARRBORO TOWN OF	100 HARGRAVES ST
7.92.J.9A	SOUTHERN EQUIPMENT COMPAN	200 BREWER LN
7.92.J.9C	CARRBORO TOWN OF	102 HARGRAVES ST
7.92.J.6B	GARNES GRAFTON S	201 BREWER LN
7.92.J.6A	BULLSEYE PROPERTIES LLC	202 BREWER LN
7.92.J.7	CHAMBERS MAY ELIZABETH	101 HARGRAVES ST
7.92.J.6	WHISNANT THOMAS S	103 HARGRAVES ST UNIT# J

Section 4. Section 15-146 (Table of Permissible Uses) is amended by modifying the use classification 21.000 Cemetery and Crematorium by creating two new subcategories for this use so that the permit requirements now read as follows:

DESCRIPTION	R-2	R-3	R-7.5	R-15	R-20	RR	B-1	B-1 (G)	B-2	B-3	B-3 T	B-4	M-1	M-2	CT	C	W-R	B-5	WM-3	O	O/A	
21.000 Cemetery and Crematorium																						
21.100 Town-owned Cemetery	Z	Z	Z	Z	Z	S	Z	Z	Z	Z	Z	Z	Z	Z	Z	C	Z	Z	Z	Z	Z	Z
21.200 All other cemeteries																						
21.300 Crematorium																						

Section 5. Subsection (c) of Section 15-198 Open Space of the Carrboro Land Use Ordinance is amended to read as follows:

(c) Except as otherwise provided in subsection (j) and Section 15-203, every residential development in zoning districts other than the R-2 and OR-MU districts shall be developed so that at least forty percent (40%) of the total area of the development remains

permanently as open space. Every residential development in the R-2 and OR-MU districts shall be developed so that at least twenty percent (20%) of the total area of the development remains permanently as open space.

Section 6. Subsection (d) of Section 15-198 Open Space of the Carrboro Land Use Ordinance is amended to include a new subdivision (5) at the end that reads as follows:

(5) Notwithstanding the foregoing, the playfield requirement will not apply to residential mixed use developments located within the OR-MU zoning district.

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

Section 8. This ordinance shall become effective upon adoption.

PUBLIC HEARING ON REZONING PROPOSAL FOR R-2 DISTRICT/ESTABLISHMENT AND PLACEMENT OF OR-MU ZONING DISTRICT

The Board of Aldermen enacted a 180-day moratorium on land use permit review of certain developments in the R-2 zoning district on August 23, 2005 and subsequently directed staff to prepare an ordinance that established a new zoning district in that area. It was necessary for the Board of Aldermen to receive public comment before taking action on the draft ordinance.

Trish McGuire, the Town's Planning Administrator, addressed the Board.

Alderman Herrera asked about the closest sewer lines to the property.

Roy Williford, the Town's Planning Director, said that there are sewer lines running toward the stream area above Knolls Street near Roberson Street in a southerly direction.

Alderman Haven O'Donnell asked if there had been any feedback from the Gattis family.

Mitch Virchick, a resident of Maple Avenue, addressed the Board. He stated that the rezoning plan for the cemetery is confusing and that he had concerns that it would be compromised.

Alderman Zaffron stated that it is currently non-conforming and that this will bring it into conformity.

David Rooks, an attorney representing Sam and Vicki Hunt, owners of the Hunt Electric property, addressed the Board. He stated that the Hunts have had a business in Carrboro for over 20 years and want to stay in Carrboro but they are now a non-conforming use. This will limit their ability to expand their business. They would like to do something with it, but as long as it is a non-conforming use, there is no economic incentive and there are planning problems. The problem with the ordinance is that it does not make Hunt Electric a conforming use. He asked that the Board re-define a retail, low-volume, traffic generator.

Mike Brough said there is no problem with it conceptually. He stated that he was not sure it was within the framework of what has been proposed for this hearing because it would apply across the board and would not affect only this one zoning district that is being proposed. If the Board says it looks like a good idea, we can get it and bring it back. It will take a while to go through the appropriate steps.

James Carnahan, the Chair of the Planning Board, addressed the Board. He stated the recommendations that were voted on unanimously by the Planning Board.

Perry Saffron, an attorney in Raleigh representing the Southern Equipment Company (which operates Readimix Concrete Company and STGL, a property owner in area affected by this ordinance) addressed the Board. He agrees with the Economic Sustainability Commission's decision to require two more weeks of consideration to evaluate comments and make recommendations. He stated that he wished to focus on the legislative, not judicial process. STGL purchased the property in the R2 zoning district - an area buffered or protected from expansion and intensification of commercial development in the downtown. He stated that they had not found compelling information that would drive a non-retail commercial use. It is not time to rezone or downzone a piece of property at this location that sits idle for a long period of time. Has research been done? He asked that the Board carve out those appropriate exceptions to zoning, as legislatures, to committed, processed, pending applications, and examine fairness for what is in process. We think that the Board, as legislators, needs to make findings that the vision that you previously had has changed. We do not think that research has been done. We offer to be part of that process and to share data that we find compels it to be residential.

Alice Neebe addressed the Board. She stated that a reduction of density for lots in R-2 to R-7.5 is unfair. The adjacent property is being increased to non-residential uses. The Neebes have offered to grant access to the

owners of the Gattis property. It is unfair to have the OR-MU next to R-7.5. This exempts them from having business development, and limits improvement to property they already have.

Valerie Lambert, a resident of Roberson Place, addressed the Board. She stated concern about properties being rezoned to R.7.5. She fears that a developer will come in and build enormous houses.

Alderman Zaffron said that it means that the minimum lot size per dwelling unit is 7500 square feet.

Valerie Lambert stated that she wants to keep the cemetery area as it is. She asked about the status of the bike path.

George Seiz, the Town's Public Works Director, said the town staff is opening bids for the Roberson Bikepath project on April 13th and construction will begin this summer.

Alderman Herrera asked about the plan of sidewalks for Hargraves Street and Eugene Street. This is one of the few remaining historical African American neighborhoods in Carrboro and there are concerns about retaining the character of the neighborhood.

Roy Williford said that there are sewer lines on Hargraves and Eugene Streets. They were put in around 1967 or 1968.

Alderman Broun asked staff to check with OWASA about sewer lines in that area.

Beth Flora, a resident of Carr Court, addressed the Board. She stated that she and her neighbors were not prepared to address the issues because they did not understand what was going on. They asked the Board for more time to get their concerns to them. She invited the Board to her neighborhood and to her home. She said she was surprised that Mr. Gattis was not present at the meeting. She said that historically, hers is an African American neighborhood with a lower income bracket. She stated that, while Ms. Neebe wants to develop commercially, she does not believe that is the feeling of the entire neighborhood. They want to preserve the neighborhood and they want more time.

Pearlie Jones, a resident of Carr Court, addressed the Board. She said that they did not understand, but they do have some concerns. The sewer line is not good and they have problems two or three times this year. She stated that there is no place for their children to play. They used to have room in their neighborhood but the daycare locked the area off. They have no sidewalks. There is trouble with water washing through their neighborhood and washing away their land. Gutters are running over on Eugene Street where she lives.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY ALEX ZAFFRON TO KEEP THE PUBLIC HEARING OPEN UNTIL APRIL 25th, SO THE NEIGHBORS HAVE TIME TO HAVE THEIR DISCUSSIONS AND THE ECONOMIC SUSTAINABILITY COMMISSION HAS HAD TIME TO MEET. VOTE: AFFIRMATIVE SIX, ABSENT ONE (CHILTON)

Alderman Zaffron asked the Planning Board to take another look at comments and suggestions about thresholds. He asked staff for a response to the proposal made by David Rooks.

Alderman Haven O'Donnell asked that someone contact Mr. Gattis to get his perspective on the OR-MU.

Alderman Herrera stated that it would be good for us to go into this neighborhood and have a meeting with them, officially, not just as individuals, and explain benefits of what we are trying to develop.

Alderman Coleman said he is planning to meet with Ms. Flora and will let anyone who is interested know.

Alderman Zaffron cautioned everyone to consult with the attorney prior to meetings/discussions.

Mike Brough said there is no problem meeting with neighbors just as long as there is not a quorum of the Board present.

MOTION WAS MADE BY JOHN HERRERA TO HAVE AN OFFICIAL MEETING WITH THE RESIDENTS OF CARR COURT. (MOTION DIED FOR THE LACK OF A SECOND.)

Alderman Broun said that Alderman Coleman will communicate with the neighborhood representative and will let the Board know so that the open meetings law is not violated.

Alderman Broun stated that Alderman Herrera asked staff to contact OWASA re: (Eugene Street neighborhood) sewer pressure and report back to the Board. Also, there is a question of stormwater that needs to be looked at and causes of loss of soil and amount of surrounding impervious surface.

Alderman Herrera expressed his frustration with the Board to second his motion. When folks are trying to reach out to us, we should take opportunity to run with it. We just missed an opportunity to provide a voice for those who do not have one.

Alderman Broun said that there are only two board members working with the New Horizons and that is for a limited period. Just because we are not having an official meeting does not mean that we value the neighborhood any less.

Alderman Gist voted against the motion because when you have a big official meeting, the press and town staff is there and it can become uncomfortable for neighbors. Having small, intimate conversations between several members of the Board and several members of the community is more effective, intimate and not intimidating.

Alderman Coleman said the discussion came up in the context of a public hearing on the adjoining property and he doesn't see how it relates to the issue of rezoning. The comparison to New Horizons is a good one because Alderman Haven-O'Donnell spent a lot of time talking to people in neighborhood and talked to staff about it.

Alderman Haven O'Donnell said that she did not second Alderman Herrera's motion because she was thinking about Miss Jones and Miss Flora. They want to learn about this and would be more comfortable in their own living room with in an informal grouping. If a big group and the press came, ownership and empowerment does not belong to them.

Alderman Herrera said that he appreciates the feedback and meant no offense.

CONTINUATION OF THE PUBLIC HEARING: REZONING PROPOSAL FOR R-2 DISTRICT/ESTABLISHMENT OF OR-MU ZONING DISTRICT

The Board of Aldermen held a public hearing on March 28th and continued it to the April hearing to allow additional time for the Board to receive public comments before taking action on the draft ordinance.

Mayor Chilton asked the Board to recuse him from this item due to a conflict of interest.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JOAL BROUN TO RECUSE MAYOR CHILTON. VOTE: AFFIRMATIVE ALL

Trish McGuire, the town’s Planning Administrator, addressed the Board.

David Rooks, representing Hunt Electric, addressed the Board. He stated that the staff proposal allows Hunt Electric to be made conforming as part a redevelopment plan. He does not make Hunt Electric conforming now. They would like to be made conforming now.

Perry Saffron, representing The Southern Equipment Company (which operates Ready Mix Concrete Company and STGLLC) addressed the Board. He quoted a recommendation from the Economic Sustainability Commission regarding access to the property: “it is our recommendation that mixed use be permitted but not required. We also want to recommend that light manufacturing as well as research and development uses be permitted.” He stated that his client’s problem with access is aggravated by the mixed-use concept. He urged the Board to think about access and not to rezone the property.

Harvey Reid, a Carr Court homeowner, addressed the Board. He stated that he represented the Carr Court homeowners and came to discuss the impact of rezoning on property. He presented the Board with a petition from homeowners stating that they agree to the current proposal. They are concerned about the impact that density will have on their families and have begun to meet to address and provide the Board with their primary concerns. There is only one entrance – a railroad and no protection. He stated that they feel the impact of the bar and karate school. Sometimes the traffic is so heavy, just getting in and out is hazardous. He stated that they are concerned taxes going up and that many of the residents are on fixed incomes. He stated that the cement plant is an issue--it is disturbing to hear the noise all-night and early in the morning. .

Alderman Gist asked staff for their opinion on what would happen to the tax bill for folks on Carr Court if the zoning change goes through.

Mr. Reid stated that there is only one way in and if train collapsed, or there was a multiple car wreck, there is no way of coming in or out.

Alderman Herrera asked if Mr. Reid supported the bike path.

Mr. Reid said sometimes bikers are in danger when they come over Brewer Lane. They suffer the same issues - so many people are using the same throughway.

Deloris Bailey, Executive Director of Empowerment, addressed the Board. She stated that the Carr Court community is united again. It is the oldest neighborhood in Carrboro and deserves to be listened to on this issue. They are concerned with density and should not bear the brunt of construction.

Alderman Broun stated that there is no project or application before the Boards.

Ms Bailey said the neighborhood feels it is important to speak up because they will have to bear the brunt of noise and traffic with a mixed-use project. The main issue is that they be listened to.

Ms. Flores said that the families were invited but they did not come.

William Gattis addressed the Board. He reiterated what his neighbors said. He stated that he wanted his and his mother's property issue to be separate for now, that he has to resolve with Ready Mix and is trying to decide which way to go. He stated his desire for the property to remain zones R-2 for now; any high-density development would have an impact. Brewer Lane apartments and the bar and karate school place a higher burden. Beyond the railroad, there are no sidewalks to Wesley or Eugene Streets. The bike path brings more people. He stated his concern about density and the safety of the children. He, his mom, and Ms. Neevey do not have sewer. They are concerned that the whole town surrounds them. He grew up where people owned their houses. He asked that in the process of rezoning, to please make sure people are cared for - that they get their sewage. They are neglected - sewage builds up behind apartments.

Alderman Coleman asked Mr. Gattis why he wanted the property to stay R-2.

Mr. Gattis said he has issues with his property to get resolved first.

Ms. Flores stated that the residents support mixed use, not residential. They hope it will not become student housing. They do not want that.

James Carnahan, Chair of the Planning Board, addressed the Board. He stated that the Planning Board voted unanimously not to change the thresholds. They want to find every opportunity to find affordable housing in the community. They are working on a recommendation to take a look at the economics of affordable housing and what might be a suitable threshold. .

MOTION WAS MADE BY ALEX ZAFFRON AND SECONDED BY DAN COLEMAN TO CLOSE THE PUBLIC HEARING. VOTE: AFFIRMATIVE ALL

Alderman Broun stated that the Board would not be voting tonight. She asked if the language could be modified without an additional public hearing.

Mike Brough said yes, but it will require some drafting. He would need instruction and language.

Alderman Coleman suggested a compromise re: affordable housing. He stated that a minimum requirement would be 50% residential. A development could go above 50% up to a maximum of 80% as long as 50% of any additional amount above the base 50% meets all affordable housing criteria.

Alderman Broun asked for an opinion about whether to rezone or pull the two properties referred to in Mr. Gattis' packet.

Mike Brough said the Board could do as they choose and revisit the issue at another time.

Alderman Herrera stated that of the twelve people who signed petition, none of them are Spanish. Their input is absent from the process.

Alderman Broun stated that the Board would vote at the next meeting and let all the people who spoke at the hearing know when it would be continued.

Alderman Broun asked staff to:

- Bring back a report on the times that the cement plant is operating and information about the noise issue.
- Check with NCDOT about whether we can get a railroad crossing arm or lights to let people know that a train is coming.

- Check with OWASA re: sewage issue and whether OWASA will provide an 8'' as opposed to 4'' sewer pipe.
- Follow-up about OWASA's sewer policy about engineering costs, project costs and engineering costs of sewerage unsewered neighborhoods
- State or federal funds for people re: getting sewer attached to their home.
- Put up dead end sign.
- Provide new people on Board with factors for sidewalks.
- Contact the Latino families with an interpreter to make see if they have any questions about the rezoning proposal. (Staff was asked to discuss this with Alderman Coleman and Alderman Haven-O'Donnell).

Alderman Haven-O'Donnell asked about the Roberson Place bike path.

Alderman Zaffron said it has gone out to bid and will come to the Board for approval on May 16th.

Alderman Broun asked staff to keep the neighbors informed about this.

DISCUSSION OF THE REZONING PROPOSAL FOR R-3 DISTRICT/ESTABLISHMENT AND PLACEMENT OF OR-MU ZONING DISTRICT

The Board of Aldermen held a public hearing on March 28th and April 25th on a rezoning proposal for the R-2 district. The Board requested additional information to consider in deciding on the proposed zoning change.

Mayor Chilton asked to be recused.

MOTION WAS MADE BY JOHN HERRERA AND SECONDED BY JACQUELYN GIST TO RECUSE MAYOR CHILTON. VOTE: AFFIRMATIVE ALL

Trish McGuire, the town's Planning Administrator, made the presentation.

Alderman Broun asked if Hargraves Street could be considered for funding in Phase II of the town's Sidewalk Bond Program.

Dale McKeel, the town's Transportation Planner, stated that the town has received funding from NCDOT to construct a sidewalk along a portion of Hargraves, Wesley and Brewer Lane. He stated that the town is in the process of obtaining rights-of-way and temporary construction easements.

Alderman Broun asked that the town staff contact Ms. Flora about the plans to construct the sidewalk.

Alderman Broun asked that the town staff obtain information from OWASA whereby the rate base subsidized the extension of sewer, i.e., Mt. Bolus, etc.

Mike Brough gave a status report on a conversation with STGL regarding their development plans. He stated that they do not think that the currently drafted ordinance would be consistent with their development objectives, and that they are exploring the possibility of proposing a development that would accommodate the desire to have a mix of residential and commercial uses. They might propose a few changes in the draft ordinance.

It was the consensus of the Board to delay action on the proposed ordinance until June 20th with the request that STGL meet with the neighbors prior to that date to discuss any suggested changes to the draft ordinance amendment.

From: Todd Spencer [mailto:TSpencer@owasa.org]
Sent: Thursday, May 25, 2006 5:12 PM
To: Patricia J. McGuire
Cc: Roy M. Williford; Greg Feller; Ed Holland
Subject: RE: Sewer extensions

Trish,

I'm writing in response to your e-mail below.

Under the 1976 agreements of purchase and sale among the Towns of Carrboro and Chapel Hill, the University and OWASA, OWASA is required to have a policy which provides that those primarily benefiting from an extension will bear its cost.

Attached is the current OWASA Board policy as adopted in 1999 which applies to water and sewer extensions to existing unserved neighborhoods and which provides for payment of costs by benefiting properties.

This policy essentially says that:

1. The cost of water or sewer main extension project is assessed to each of the lots determined by the OWASA Board as benefiting from the project after a public hearing and in accord with State law regarding assessments.

(This policy does not apply to new developments. Developers do not have the option of doing projects with OWASA assessments; the developers are responsible for managing, financing, designing and installing water and sewer main extensions to meet OWASA's standards.)

2. Costs to be recovered through assessments do not include engineering design and construction observation expenses up to 15%, or legal expenses up to 5% of total expenditures for a project. Engineering design and observation costs over 15% and/or legal costs over 5% are included in the costs to be assessed.

The Assessment Policy that was in effect at the time of the Mount Bolus Sewer Extension Project in 1993 was effectively rescinded with the adoption of the 1999 policy.

The policy in effect in 1993 included the provision that the Board could elect to use a projected firm cost per linear foot based upon historical costs for similar projects. I understand that is what the Board elected to do in that particular situation. In addition, the Town of Chapel Hill contributed funds to help pay for the sewer projects and thus reduced assessments. The costs covered by the Town's funding were not included in calculating assessments.

However, the actual cost of the Mount Bolus Sewer Extension and five other assessment projects in the mid-1990s exceeded the historical per-foot construction cost used in those assessments. Therefore, the assessments did not recover the full cost of the sewer improvements.

In these six projects, the benefiting parties' assessment covered about 39 percent of total costs, the Town of Chapel Hill paid approximately 11 percent, and OWASA rate base paid the remaining 50 percent of costs.

ATTACHMENT C-2

The present OWASA Assessment policy for extension into existing unserved neighborhoods has the following principles:

- Benefiting party to pay total project costs.
- OWASA will seek to reduce the financial hardship on the benefiting parties through measures that may include, but are not limited to:
 - contractual arrangements providing extended payback periods of payments for assessments (10-year installment payment arrangements with interest are typically available as permitted under State law):
 - reducing up-front assessment charges and levying increased monthly service and/or commodity charges for assessed parties; and
 - consolidating the design and construction of improvements to various unserved neighborhoods to obtain economies of scale

I hope this information is helpful to you. If you have questions, please give me a call.

Thanks,

Todd Spencer, P.E.
Engineering Manager - System Development
Orange Water and Sewer Authority
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RESOLUTION ADOPTING ASSESSMENT POLICY APPLICABLE TO
WATER AND SEWER EXTENSIONS TO EXISTING UNSERVED NEIGHBORHOODS

WHEREAS, the elected bodies of the Towns of Carrboro and Chapel Hill and Orange County have requested that OWASA review its assessment policies in order to assure that the manner in which the costs of water and sewer extension projects are calculated and assessed is fair and meets the requirements of the statutes and OWASA's obligations under the Sale and Purchase Agreements, and, in particular, that it does not impair the orderly availability or unduly discourage otherwise necessary connections to these vital public services; and

WHEREAS, the Board of Directors of OWASA has considered the opinions, requests and proposals made by citizens in recent public meetings about the costs of gaining access to these public services; it has reviewed the work of its staff, and has considered the suggestions of the elected bodies of the Towns and County, and the advice given on behalf of the University of North Carolina at Chapel Hill in this regard, and it has determined that the attached policy is necessary and appropriate to assure the availability and orderly provision of public water and sewer service to the Carrboro, Chapel Hill, and Orange County citizens within its service area, and that it is necessary and will result in the protection of the environment and public water supply, and that it will primarily benefit persons who are able to connect to these services as well as their neighbors and the public at large;

NOW, THEREFORE, BE IT RESOLVED:

1. That the Orange Water and Sewer Authority Board of Directors adopts the attached policy entitled, "*Assessment Policy Applicable To Water And Sewer Extensions To Existing Unserved Neighborhoods*".
2. That the policy shall become effective upon adoption.
3. That the Executive Director is directed to implement and interpret the *Assessment Policy Applicable To Water And Sewer Extensions To Existing Unserved Neighborhoods*.

Adopted this 27th day of May, 1999



Dan C. VanderMeer, Chair

ATTEST:


Joni Gilgor
Clerk to the Board

ORANGE WATER AND SEWER AUTHORITY

ASSESSMENT POLICY APPLICABLE TO WATER AND SEWER EXTENSIONS TO EXISTING UNSERVED NEIGHBORHOODS

PURPOSE: The purpose of this policy is to set forth the principles and guidelines for the extension of and the allocation of cost for the water and/or sewer mains of the Orange Water and Sewer Authority (OWASA) when such facilities are extended through the assessment process.

BACKGROUND: An integral part of the operation of OWASA is the orderly extension of water and/or sewer service from its existing facilities or the construction of new facilities. This extension of service may consist of the construction of new collectors, interceptors, mains, pump stations and other appurtenances necessary to serve a group of properties whose owners have petitioned OWASA for service and have agreed to assume the cost of the water and/or sewer extension or to serve properties without a petition from property owners that OWASA has determined are benefited by the extensions. The North Carolina General Statutes and the Sale and Purchase Agreements with Town of Chapel Hill, Town of Carrboro and The University of North Carolina at Chapel Hill enable OWASA to make such extensions and assess benefited properties the costs associated with the extensions.

POLICY: OWASA, at the discretion of the Board of Directors, may arrange for the installation of water and/or sewer mains to serve existing developed areas and assess the cost of the improvements to the benefited properties in accordance with the North Carolina General Statutes. Extension to new development will not be financed through the assessment process. If undeveloped land within an assessment area benefits from an assessment project then such land will be assessed for the improvements. Undeveloped land through or along construction of off-site line extensions may also be assessed.

Assessment projects must have prior approval of the OWASA Board of Directors and may be initiated by petition of residential property owners, County or State public health agencies, by a County or municipality, or by OWASA at its discretion. OWASA's decision to undertake an assessment project shall not be subject to prior endorsement from a majority of the property owners benefiting from said project. In determining whether or not to proceed with an assessment project, OWASA will consider the needs of all property owners who are impacted by such project. Multiple assessment project requests will be prioritized for construction by OWASA.

Extension of service shall be made in a manner to appropriately serve individual properties and to allow for the future orderly development of the water and/or sewer system to serve other properties

Water and/or sewer main extensions and appurtenant facilities installed by OWASA through the assessment process shall be financed by the owners of the benefited properties through (1) special assessments made in accordance with the provisions of the North Carolina statutes and laws; (2) prior funding of the improvements; and/or (3) other financial arrangements satisfactory to OWASA.

The cost of the assessment project, as determined by OWASA, shall be specially assessed against each of the lots or parcels determined by OWASA as benefiting from the project and set out in a Final Assessment Roll. Such allocation of cost shall be in accordance with the provisions of North

Assessment Policy Applicable to Water and Sewer
Extensions to Existing Unserved Neighborhoods
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Carolina General Statutes 153A, Article 9, Special Assessments.

Costs recovered through assessments shall not include the engineering design and construction observation expenses in an amount up to 15% of total expenditures for a given project. Costs recovered through assessments shall not include the legal expenses in an amount up to 5% of total expenditures for a given project. Any such engineering design and observation costs in excess of 15% and/or legal costs in excess of 5% will be included in the summation of costs to be assessed.

Costs recovered through assessments shall not include off-site costs, including any easement acquisitions of intervening improvements required to connect assessment projects situated within the incorporated limits of Chapel Hill and Carrboro when the OWASA Board of Directors determines that (a) the off site improvements are assessed to intervening benefitted properties; or, the cost of the off site improvements are reasonably anticipated to be recovered within the next 10 year period through fees from service connections or extensions to the proximate intervening properties; and (b) the costs of the off-site improvements that are not assessed are in reasonable relationship to the costs of the assessment project and funding is available in the approved Capital Improvements Budget for such off-site cost, or funds are reliably available from other sources such as grants, subsidies or contributions in aid of construction from private or public parties.

The exclusion of off-site costs for assessment projects situated outside of incorporated areas but within the Urban Service Areas of Chapel Hill and Carrboro shall be determined by the OWASA Board of Directors for each such project.

Exclusion of off-site costs shall not apply to assessment projects situated outside the Urban Service Area of Chapel Hill and Carrboro.

Off-site mains shall be defined as those sections of mains installed outside of the benefitted project area which do not provide service directly to individual lots within the benefitted area and are of a size so as to provide service to areas other than that defined by the assessment project resolution.

Upon completion of the project, property owners will be notified and a Final Assessment Roll adopted. Liens against the property will be recorded as security for the amount of the assessment.

Assessments may be paid without interest at any time before the expiration of thirty (30) days from the date that notice of confirmation of the Final Assessment Roll is published. If the assessments are not paid within this time, all installments shall bear interest at a rate set by the OWASA Board of Directors in the assessment proceedings until paid. In the event one or more payments of the assessment against a parcel of property are not made in accordance with the terms for such payment, OWASA will take action under the lien to collect the money due.

For assessment projects, the property owner connecting within sixty (60) days of the confirmation

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of the Final Assessment Roll may enter into a contract with OWASA to pay service availability fees for connections to lines extended by an assessment project, but not service connection fees, under established terms and conditions by monthly installments over the same time period and at the same interest rate as established for the assessment project costs. The installment payment of service availability fees shall become a part of the monthly billing for service, and nonpayment shall be subject to the same policies and penalties that apply to delinquency in the payment of monthly charges for water and sewer services provided by OWASA. The unpaid balance shall be secured by a lien against the benefited property and personal security to satisfy any outstanding balance upon sale of the property. The payment of the unpaid balance shall become due upon transfer of the property.

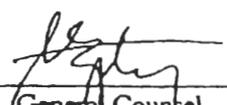
For assessment projects, the residential property owners connecting within ninety (90) days of notice from OWASA that the construction has been completed and service is available for active service connections, the service availability fees applicable to the property will be reduced by 25%, not to exceed \$500 per benefited property.

If an assessed lot is subdivided at any time after adoption of the Final Assessment Roll, the newly created lots shall be required to pay all applicable availability fees in accordance with the Schedule of Rates and Fees in effect at the time, prior to establishing a service connection to the system(s) owned by OWASA.

REFERENCES:

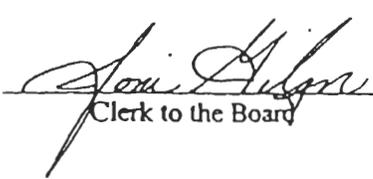
- OWASA Schedule of Rates and Fees
- OWASA Water and Sewer Extension Policies

Reviewed by General Counsel 6-3-99
Date



General Counsel

Adopted by the Board: 5/27/99
Date



Clerk to the Board



ORANGE WATER & SEWER AUTHORITY
Quality Service Since 1977

DISCUSSION PAPER

**Assessment Policy Applicable To Water And Sewer
Service Extensions To Existing Unserved Neighborhoods**

March 12, 1998

ORANGE WATER AND SEWER AUTHORITY
DISCUSSION PAPER
ASSESSMENT POLICY APPLICABLE TO WATER AND SEWER
SERVICE EXTENSIONS TO EXISTING UNSERVED NEIGHBORHOODS

March 12, 1998

Purpose

The Orange Water and Sewer Authority (OWASA) desires to establish a long-term policy for the extension of water and sewer services through the assessment process to existing unserved neighborhoods within the OWASA service area. Such a policy is driven by long-term public health and environmental concerns and will have significant legal, financial, and planning implications. These issues must be fully and carefully considered by the OWASA Board of Directors with input from OWASA's customers, constituent governments, the University of North Carolina at Chapel Hill, and other stakeholders prior to final policy action. The purpose of this document is to provide background and historical information; discuss issues and alternatives; and recommend a general policy framework for assessment projects. This document will serve as a basis for discussion and consideration of this issue in a joint workshop with OWASA's constituent governments to discuss the Assessment Policy before the OWASA Board takes any formal action.

Background

OWASA currently provides water and wastewater services to 15,200 customer accounts. Within existing developed neighborhoods in the OWASA service area, approximately 700 parcels do not have public water mains on or adjacent to the property and approximately 1,300 parcels do not have public sewer mains on or adjacent to the property.

Public water supply is considered to be more reliable than private wells in urban areas. Similarly, public sewer service is much more reliable than septic tanks in densely populated urban areas. When private on-site sewage systems fail, polluted effluent may contaminate groundwater resources and nearby streams and may present a threat to public health. Extending public services to locations where these circumstances exist is desirable in order to alleviate or avoid public health and environmental concerns.

In the summer of 1997, OWASA had a consultant prepare a comprehensive study of the unsewered parcels in developed neighborhoods within the OWASA service area. The consultant generally examined 1,000 septic systems with an average age of 30 years and found that 37 systems (four percent) were failing. The report also found that based on the Soils Survey for Orange County, only 16 percent of the total land within these neighborhoods is considered suitable for septic systems. The remaining 84 percent is considered to be marginally suitable or unsuitable, which is expected to result in additional septic tank failures. The estimated construction cost to provide sewer service to the unsewered areas studied was approximately \$17 million. Individual lot costs ranged from \$9,000 to \$29,000 per lot excluding Service Availability Fees and private service laterals.

Since 1977, OWASA has received only one petition to extend water service. Due to the very limited interest and lack of documented problems with private wells, OWASA has not commenced a comprehensive study of the areas without public water service.

The existing Agreements of Sale and Purchase between OWASA and the Town of Carrboro, the Town of Chapel Hill, and the University of North Carolina established that OWASA should in general follow a policy where, to the extent possible, fees are "based on cost of service" methodology. In the specific case of water and sewer line extensions, this policy was made explicit by the statement "...the ultimate cost of any such extension will be borne by those primarily benefiting from such extension." The agreements also authorize either Town to construct extensions to the water and sewer systems, and dedicate the improvements to OWASA. The Towns and Orange County have statutory authority to pay for water and sewer system improvements and to recover such costs through several methods, including assessing the benefited parties.

The OWASA Board of Directors has stated a willingness to seek the input of the parties and to work together to reach a construction of the terms of the original Agreements of Sale and Purchase in light of contemporary circumstances and needs.

OWASA has the authority to make special assessments against benefiting properties for all or part of the costs of constructing, reconstructing, extending or otherwise building or improving water and sewer systems (G.S. 153A-185).

From 1977 to 1993, OWASA extended water service to one project area and sewer service to five project areas. All of the project costs were assessed to the benefited parties. There were no subsidies from OWASA; however, several of the projects received State grant funds which reduced assessments to the benefited parties.

In 1992 and 1993, OWASA was petitioned to provide sewer service to six neighborhoods. In response to citizen concerns about the high cost of the service, the OWASA Board of Directors adopted, in December 1993, a *Policy Statement On Assessment Projects For Extension Of Water And Sewer Mains*. This policy established a line foot method for determining the assessment amount and excluded a portion of engineering and legal fees. This policy was applied to the six sewer projects with the OWASA Board's direction to review the cost experience at the end of 30 months (June 1996).

The Town of Chapel Hill contributed funds to five of the six sewer projects. The Town also developed a method for assisting individuals who met certain economic criteria with subsidies for availability fees and plumbing costs. The Town of Carrboro recently established a policy to provide \$750 of assistance to property owners connecting existing homes to the sewer system:

The OWASA Board developed incentives to encourage system connections within assessment areas. This program rebates a portion of the availability fee if the property owner is connected to the new system within 90 days of project completion. The program also offers monetary assistance to property owners who were previously connected to the sewer system but not in accordance with OWASA's current water and sewer extension and service policies.

Staff's review of the six sewer assessment projects undertaken during the 30 month period revealed that the line foot rate established by the Board did not recover the full cost of the improvements. Of the six projects, the benefited parties paid approximately 39 percent of the total cost (\$1,234,227), the Town of

Chapel Hill paid approximately 11 percent of the total cost (\$342,109) and the OWASA rate base assumed the remaining 50 percent of the total cost (\$1,595,096).

Since the expiration of the 30-month assessment policy in June 1996, additional petitions for sewer extensions have been received by OWASA. The Board desires to consider these petitions as part of a long-term policy.

Funding Alternatives

Possible alternatives for funding assessment projects are outlined below. Potential advantages and disadvantages are indicated by plus (+) and minus (-) signs respectively.

1. Benefiting Party Pays 100 Percent of Assessment Project Costs

- + Complies with cost-of-service methodology stipulated by the Agreements of Sale and Purchase.
- + Eliminates financial impact on existing customers.
- Financial impact on benefiting parties can be substantial.
- Needed water and sewer improvement projects may not be done in a timely fashion without financial assistance.

2. OWASA Reduces Assessment By An Amount Commensurate With Expected Benefits To The Entire OWASA Customer Base To Eliminate A Threat Or Potential Threat To OWASA's Drinking Water Supply

- + Financial contribution provides greater incentive for the timely elimination of existing or potential threats to the public drinking water supply.
- + Reduces costs to benefiting parties.
- o Impact on Agreements of Sale and Purchase may need further review.
- o Under some circumstances, precise estimates of the benefit may be difficult to determine.
- Increases costs to existing customers.
- As an enterprise operation which is solely supported by user fees, OWASA is not the most appropriate entity for redistributing the community's financial resources.

3. OWASA And Benefiting Party Share Assessment Project Costs

- + Financial assistance provides greater incentive for timely extension of water and sewer services.
- + Reduces costs to benefiting parties.
- May not comply with the Agreements of Sale and Purchase.
- Increases costs to existing customers.
- As an enterprise operation which is solely supported by user fees, OWASA is not the most appropriate entity for redistributing the community's financial resources.

4. Town(s), County And Benefiting Party Share Assessment Project Costs

- + Financial assistance provides greater incentive for timely extension of water and sewer services.
- + Reduces costs to benefiting parties.
- + As general purpose elected governments, the Town(s) and County may be more appropriate entities and have greater flexibility for redistributing the community's financial resources and targeting subsidies for assessment projects than OWASA.
- + Eliminates need for OWASA to increase existing customer rates to fund these projects.
Places greater financial burden on property owners that may not "directly" benefit from the assessment projects.
- May constrain the Town(s) and County's ability to address other funding needs.

5. Combination Of Approaches 2, 3 And 4

Participation percentages could be varied among the benefiting party, OWASA, the Town(s) and the County.

6. State And Federal Grants Or Other-Third-Party Assistance

Any contribution from other sources, such as Community Development Block Grants or the State's Clean Water Management Trust Fund, would be beneficial to all parties. Eligibility for this type of assistance is uncertain, but is expected to be limited.

Findings and Recommendations

OWASA has discussed assessment project policy throughout the recent rate study and during recent special work sessions and intergovernmental meetings with its constituent governments. Based on the information and discussions to date, OWASA hereby finds that:

1. Experience with previous assessment projects indicates that the customers appreciate the improvement that public water and sewer services provide their property and the community at large. It is widely acknowledged these improvements add lasting value to the property.
2. The existing provisions of the Agreements of Sale and Purchase clearly restrict OWASA's provision of financial assistance to parties benefited by the extension of water and sewer services.
3. Assessment costs are a primary deterrent to the more timely extension of public water and sewer services to existing unserved neighborhoods.
4. All existing and new developments should have economically and environmentally acceptable provisions for water and sewer services which have a useful life corresponding to the anticipated life of the development.
5. A comprehensive management and inspection program for on-site (septic tanks) and alternative wastewater management systems does not currently exist within and around the OWASA service area. Such a program is needed for the OWASA service area and for OWASA's water supply watersheds. The entity responsible for administering such a program would need to be determined by the Towns and the County, with participation by OWASA as requested.
6. It is appropriate and desirable for the Towns of Carrboro and Chapel Hill, and Orange County to fully consider and determine.

- a) the extent to which revenues from the general public tax base and other funding sources should be used to offset the cost of providing water and sewer service to unserved neighborhoods;
 - b) the appropriate method for providing this financial assistance;
 - c) the merits of establishing a standing fund to which the constituent governments contribute and from which financial contributions would be made to reduce the burden of the benefiting parties.
7. OWASA wishes to continue to encourage the constituent governments to contribute funds to reduce the financial hardship on the benefiting parties.
8. It is desirable for the University to determine if it is willing to accept the view that the entire community, including the University, benefits from the elimination of public health threats from failing septic systems and therefore will agree to allow money from the general rate base to be used to subsidize extension projects.

OWASA Assessment Policy Applicable To Water And Sewer Service Extension To Existing Unserved Neighborhoods

Pending potential supplemental understandings and/or clarifications in the Agreements of Sale and Purchase, the OWASA Board of Directors will maintain in effect the following assessment policy applicable to extension of improvements into existing unserved neighborhoods.

- 1. Benefiting party to pay total project costs.
- 2. OWASA will seek to reduce the financial hardship on the benefiting parties through measures that may include, but are not limited to

- a) contractual arrangements providing extended payback periods of payments for assessments;
- b) reducing up-front assessment charges and levying increased monthly service and/or commodity charges for assessed parties; and
- c) consolidating the design and construction of improvements to various unserved neighborhoods to obtain economies of scale.

Closing Statement

The OWASA Board of Directors requests comments from the Town of Carrboro, the Town of Chapel Hill, Orange County Board of Commissioners, The University of North Carolina at Chapel Hill, and the general public with regard to these issues. The OWASA Board of Directors will consider entering into supplemental understandings and/or clarifications to the Agreements of Sale and Purchase if such actions better reflect the policy objectives of the constituent governments, The University of North Carolina at Chapel Hill, and OWASA.

**A RESOLUTION ADOPTING A
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR
ADOPTING AN AMENDMENT TO THE TEXT AND MAP OF THE CARRBORO
LAND USE ORDINANCE
Resolution No. 174/2005-06**

WHEREAS, an amendment to the text and map of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: An Ordinance Amending the Carrboro Land Use Ordinance to Establish a New Office-Residential Mixed Use (OR-MU) District, and Rezone Specified Properties from the R-2 District to the New OR-MU District;

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above-described amendment is consistent with Carrboro Vision2020.

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because it supports Town policies to i) increase the non-residential tax burden by providing opportunities to expand the commercial tax base and ii) to allow and encourage mixed use development.

Section 3. This resolution becomes effective upon adoption.

**A RESOLUTION ADOPTING A
STATEMENT EXPLAINING THE BOARD OF ALDERMEN'S REASONS FOR
REJECTING AN AMENDMENT TO THE TEXT AND MAP OF THE CARRBORO
LAND USE ORDINANCE
Resolution No. 173/2005-06**

WHEREAS, an amendment to the text and map of the Carrboro Land Use Ordinance has been proposed, which amendment is described or identified as follows: An Ordinance Amending the Carrboro Land Use Ordinance to Establish a New Office-Residential Mixed Use (OR-MU) District, and Rezone Specified Properties from the R-2 District to the New OR-MU District;

NOW THEREFORE, the Board of Aldermen of the Town of Carrboro Resolves:

Section 1. The Board concludes that the above described amendment is not consistent with Carrboro Vision2020.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because the uses allowed and the zoning classification of the area is more appropriately R-2.

Section 3. This resolution becomes effective upon adoption.