

A RESOLUTION ESTABLISHING A PROCESS TO REVIEW THE IMPLEMENTATION OF THE
FACILITATED SMALL AREA PLAN FOR CARRBORO'S NORTHERN STUDY AREA

Resolution No. 134/2006-07

WHEREAS, the Carrboro Board of Aldermen seeks to consider fully policies, plans and regulations pertaining to development opportunities; and

WHEREAS, the Board of Aldermen has expressed its desire to evaluate and, if necessary, update the implementation of the NSA Plan

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen establishes the following process to review and update the NSA Plan:

- 1) February 20 – Board adopts process and sets public hearing on development moratorium for March 27th. Board directs staff to request participation from advisory boards and community members (no more than 50), with the expectation that meetings will be held on the 3rd Thursday of each month in lieu of otherwise regularly scheduled advisory board meetings starting in March (Planning, Appearance, Environmental, Transportation, Recreation and Parks, Economic Sustainability)
- 2) March 6 – Board creates NSA Plan Implementation Review Committee (NSAPIRC) and charges it with carrying out review process
- 3) March 15 – first meeting of NSAPIR. Staff presents overview of NSA Plan and major development activity to date. Community forums, especially structure, agenda, notification, et cetera are discussed
- 4) Staff proceeds with activities needed for May 5 Community Forum. If needed, staff will request that funds be made available by the Board of Aldermen to support the forums.
- 5) March 27 – Public hearing on development moratorium
- 6) April 19 – NSAPIR meets to review agenda, materials, and notification strategies for Community Forum #1
- 7) May 5 – Community forum #1
- 8) May 17 – NSAPIR meets to review outcome of first forum and plan the second.
- 9) June 2 – Community forum #2
- 10) June 3 to July 31 – Committee meets to make recommendations based on staff analysis and community input; staff works with committee to prepare ordinance text and map revisions.
- 11) August 1 to August 15 – Final drafts of ordinance amendments prepared by staff.
- 12) August 25 – Staff submits draft ordinance to Orange county by this date in order to provide at least 30 days in advance of public hearing, anticipating the Board of Aldermen action to set public hearing on August 28.
- 13) August 28 – Board sets public hearing on proposed ordinance changes and refers ordinance to advisory boards.
- 14) September 6 to 20 – Planning Board and other advisory boards review proposed ordinance changes.
- 15) September 8 – First public hearing notice published.
- 16) September 15 – Second public hearing notice published.
- 17) September 25 – Board of Aldermen conducts public hearing and considers adoption of ordinances.
- 18) October 10 (or thereafter, depending on effective date) – moratorium expires

ATTACHMENT B

A RESOLUTION CALLING A PUBLIC HEARING ON THE ESTABLISHMENT OF A SIX-MONTH MORATORIUM ON REZONING REQUESTS AND SPECIAL AND CONDITIONAL USE PERMIT APPLICATIONS FOR RESIDENTIAL DEVELOPMENT IN CARRBORO'S NORTHERN STUDY AREA
Resolution No. 133/2006-07

WHEREAS, the Carrboro Board of Aldermen must receive public comment on the establishment of development moratoria; and

WHEREAS, the Planning Board has recommended and the Board of Aldermen has developed a proposal for a process to review the implementation of the Facilitated Small Area Plan for Carrboro's Northern Area, and

WHEREAS, a development moratorium provides the opportunity to commit staff time and other resources to the review of adopted policies and plans to determine whether development applications are achieving the community goals expressed in those documents, and to update them if needed.

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on March 27, 2007 to receive public comment on a draft ordinance that would establish a six-month development moratorium on rezoning requests and special and conditional user permit applications for residential development in Carrboro's Northern Study Area and refers the draft ordinance to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

BE IT FURTHER RESOLVED that the draft ordinance is also referred to the following advisory boards and commissions for consideration and recommendation prior to the specified public hearing date:

<input checked="" type="checkbox"/> Appearance Commission	<input checked="" type="checkbox"/> Recreation and Parks Commission
<input checked="" type="checkbox"/> Transportation Advisory Board	<input checked="" type="checkbox"/> Northern Transition Area Advisory Committee
<input checked="" type="checkbox"/> Environmental Advisory Board	<input type="checkbox"/> _____
<input checked="" type="checkbox"/> Economic Sustainability Commission	<input type="checkbox"/> _____

DISCUSSION OF PLANNING BOARD RECOMMENDATION FOR A DEVELOPMENT MORATORIUM IN THE NORTHERN STUDY AREA

On December 5th, the Board of Aldermen received a presentation from Alderman Alex Zaffron and Planning Board chair James Carnahan to develop a process to re-examine the plan for Carrboro's Northern Study Area. The staff recommended that the Board of Aldermen consider a resolution providing an opportunity to specify follow-up in response to the Planning Board request.

It was the consensus of the Board to request that the town staff bring the process to update and implement the Northern Study Area Small Area Plan to the Board for adoption on February 20th.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Joal Hall Broun.

**A RESOLUTION SPECIFYING FOLLOW-UP TO PLANNING BOARD RECOMMENDATION
FOR A DEVELOPMENT MORATORIUM IN THE NORTHERN STUDY AREA
Resolution No. 116/2006-07**

WHEREAS, the Carrboro Board of Aldermen seeks to consider fully policies, plans and regulations pertaining to development opportunities; and

WHEREAS, the Planning Board has made a recommendation for a moratorium in the Northern Study Area.

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen directs staff as follows

- Instruct staff to define a process for a six-month moratorium on residential development in the Northern Study Area.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 6th day of February, 2007:

Ayes: Joal Hall Broun, Mark Chilton, Dan Coleman, Randee Haven-O'Donnell, John Herrera, Alex Zaffron

Noes: None

Absent or Excused: Jacquelyn Gist



TOWN OF CARRBORO

PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

R E C O M M E N D A T I O N

May 4, 2006

Request from the Planning Board that the Board of Aldermen Consider a Moratorium on Development in the Northern Study Area. *Revised 4-17-06*

On several occasions recently, including at their Retreat in February, 2006, the Aldermen have expressed concerns about the manner in which development has been taking place in the Northern Study Area (NSA), as well as a desire to re-consider the current zoning in the NSA.

Members of the Planning Board share those concerns, and note that development is continuing at a rapid pace whereby future opportunities to achieve important community goals for the NSA are dwindling. In light of the swift pace of development applications, the Planning Board strongly recommends that the Aldermen enact a Moratorium on rezoning, major subdivisions, special and conditional use permit applications throughout the NSA for a period of time sufficient to re-evaluate existing zoning and ordinance in respect of the principles and objectives of the Facilitated Small Area Plan for Carrboro's Northern Study Area, as well as the interests and concerns of residents of the NSA, and to enact, if necessary, new zoning and ordinance for the NSA.

To the members of the Planning Board it appears that some principles expressed in the Small Area Plan are not being realized by the pattern of suburban development predominating in the NSA. Consider the following principles from the Plan:

"Village-type development should be encouraged. This type of development blends residential and commercial opportunities, and is easily negotiated by pedestrians... Village-type development improves the Town's ability to provide services efficiently..." (p31)

"Carrboro needs neighborhoods with a mixture of housing opportunities designed for a diverse population." (p31)

"Since the population of Carrboro will continue to increase significantly in the study area, new commercial development will be needed. Routine commercial service needs should be met by neighborhood centers." (p33)

"Development of new transit routes and the location of higher density development zoning near such routes should be encouraged." (p36)

Proposed Process to Update & Implement Carrboro's Northern Study Area Small Area Plan.

Process Goals:

- To engage broad public participation in a review of the Small Area Plan for the NSA that will identify key goals of the Plan and decide whether & to what extent they are being met;
- Within a narrow focus based on the original Plan & existing Town Ordinance, produce Zoning & Ordinance proposals to bring about achievement of the original SAP vision for the NSA;
- Maintain the original SAP "build-out" density objective of 2.1 units per acre;
- Be mindful of the Town's long stated goal of doubling the non-residential tax base; consider achieving a minimum 30% commercial base at build-out of the NTA;
- Formulate proposals in respect of the immediate & proximate desires of residents of the NSA, and the long term interests of the larger community & of future residents.

Who would conduct the Process?

- Facilitator (?)
- Representatives from the following Advisory Boards:

Planning Board	NTA Advisory Board
Transportation Advisory Board	Environmental Advisory Board
New Horizons Task Force	Parks & Recreation Commission
Economic Sustainability Commission	Appearance Commission.
- Representatives from Orange County and/or Chapel Hill as parties to the Joint Planning Agreement (?)

Time-line for the Process:

The Update should be completed within 6 months of acceptance of this Proposal.

(i.e. 6 months for completion of committee & workshop activity to produce zoning & ordinance recommendations, as well as Board of Aldermen action on the proposals.)

Process Outline: (as suggested by Alderman Coleman)

- Community Workshop #1, consisting of review of current documents & maps prepared by Staff, and solicitation of input via brainstorm and/or "breakout" sessions *(Include for review: GIS inventory showing important & sensitive environmental features, maps identifying which properties are already developed or in the approvals process and which are not, zoning currently in place, basic info about each of the zones in the Ordinance, a reprise of the Small Area Plan objectives for the NTA, and projections of what density will result at the current rate of development given current zoning.)*
- Committee reviews Small Area Plan plus input from Workshop #1 to determine key topic areas based on Process Goals;
- Committee conducts individual meetings to flesh out proposals for each of the key topic areas;
- Community Workshop #2 – for each topic area
 - 1) present Committee finding
 - 2) break into small groups to discuss
 - 3) hear reports from the small groups
- Committee integrates results from Workshop #2 into final report;
- Staff prepare analysis of final report;
- Bof A work session & followup action

Suggested Board of Aldermen Involvement (per D Coleman)

- Appoint a facilitator (?)
- All members attend if able
- Ensure that each member attends at least one topic area meeting and that each topic area meeting has one BofA member present *(to ensure engagement of each member in some aspect of detail discussions)*

AN ORDINANCE ESTABLISHING A SIX-MONTH MORATORIUM ON THE
CONSIDERATION OF REZONING PROPOSALS AND THE ACCEPTANCE OF
NEW APPLICATIONS FOR SPECIAL OR CONDITIONAL USE PERMITS FOR
RESIDENTIAL DEVELOPMENT WITHIN THE NORTHERN STUDY AREA

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The Board finds that:

- a. On May 26, 1998, following years of study and community participation, the Board of Aldermen adopted the Facilitated Small Area Plan for the Northern Study Area (Northern Study Area Plan), a document which established planning goals and objectives for the area shown on the map attached to and incorporated into this ordinance as Attachment A.
- b. The Carrboro Land Use Ordinance and zoning map were amended in an attempt to implement the goals and objectives set forth in the Northern Study Area Plan.
- c. Significant development within the Northern Study Area has occurred since the adoption of the plan and the ordinance changes designed to implement the plan.
- d. The Carrboro Planning Board as well as other advisory boards and individual citizens have expressed doubts whether the goals and objectives of the Northern Study Area Plan are being achieved and can be achieved without modifications to the Land Use Ordinance and zoning map.
- e. The Board has considered and devised a process to involve the town's advisory boards as well as citizens and interested parties in the examination of the Land Use Ordinance and zoning map to determine if changes are warranted in order to better implement the goals and objectives of the Northern Study Area Plan.
- f. Considerable assistance from the town's planning staff will be necessary in order to allow this process to move forward satisfactorily and expeditiously.
- g. A moratorium on the consideration of rezoning proposals and the acceptance of new applications for conditional and special use permits for residential developments is necessary in order to allow the planning staff to devote the time necessary to move the above described planning process forward.
- h. A moratorium on the consideration of rezoning proposals and the acceptance of new special and conditional use permit applications is also necessary to prevent decisions that could be inconsistent with the results of the planning process outlined above.

- i. A moratorium on the acceptance of special and conditional use permits pending the completion of the planning process described above is also necessary to avoid the waste of time and resources (on the part of developers as well as town staff) that would otherwise occur if development plans are prepared and evaluated under ordinance requirements that may well be subject to change before the review process is completed.
- j. The Board concludes that no other alternatives to a moratorium exist that would serve as well to achieve the objectives and avoid the problems set forth in paragraphs g, h, and i above.

Section 2. From and after the effective date of this ordinance, for a period of six months, (i) the town will not accept applications for rezonings nor consider any pending applications for the rezoning of property within the Northern Study Area as shown on Attachment A, and (ii) the town will not accept any new applications for approval of special or conditional applications for development of property within the Northern Study Area as shown on Attachment A. Nor shall the town review or consider any concept plans for developments within this area. This moratorium is designed to provide time to allow for consideration of Land Use Ordinance map and text changes that would better achieve the goals and objectives of the Northern Study Area Plan and otherwise to achieve the objectives set forth in Section 1 of this ordinance.

Section 3. As set forth in Section 2, this moratorium terminates at the end of a six month period following its effective date. This six month period is the minimum time necessary to allow the above described planning process to go forward, including the preparation and adoption of any ordinance text or map changes that may be the product of this process.

Section 4. In accordance with Section 2.3C of the Joint Planning Agreement, a moratorium affecting rezoning or development applications within the Carrboro Joint Development Area may not become effective until approved by the Orange County Board of Commissioners. It is anticipated that such approval may be forthcoming on April 10, 2007, making that date the effective date of this moratorium. Either prior to the effective date of the moratorium, or while the moratorium is in effect, the following schedule of work is hereby established so that the planning process described above can be completed prior to the expiration of the moratorium.

- a. Prior to or by effective date of moratorium – NSA Plan Implementation Committee established by Board of Aldermen
- b. May 5 – Community forum #1
- c. June 2 – Community forum #2
- d. June 3 to July 31– Committee meets to make recommendations based on staff analysis and community input; staff works with committee to prepare ordinance text and map revisions.

ATTACHMENT F-3

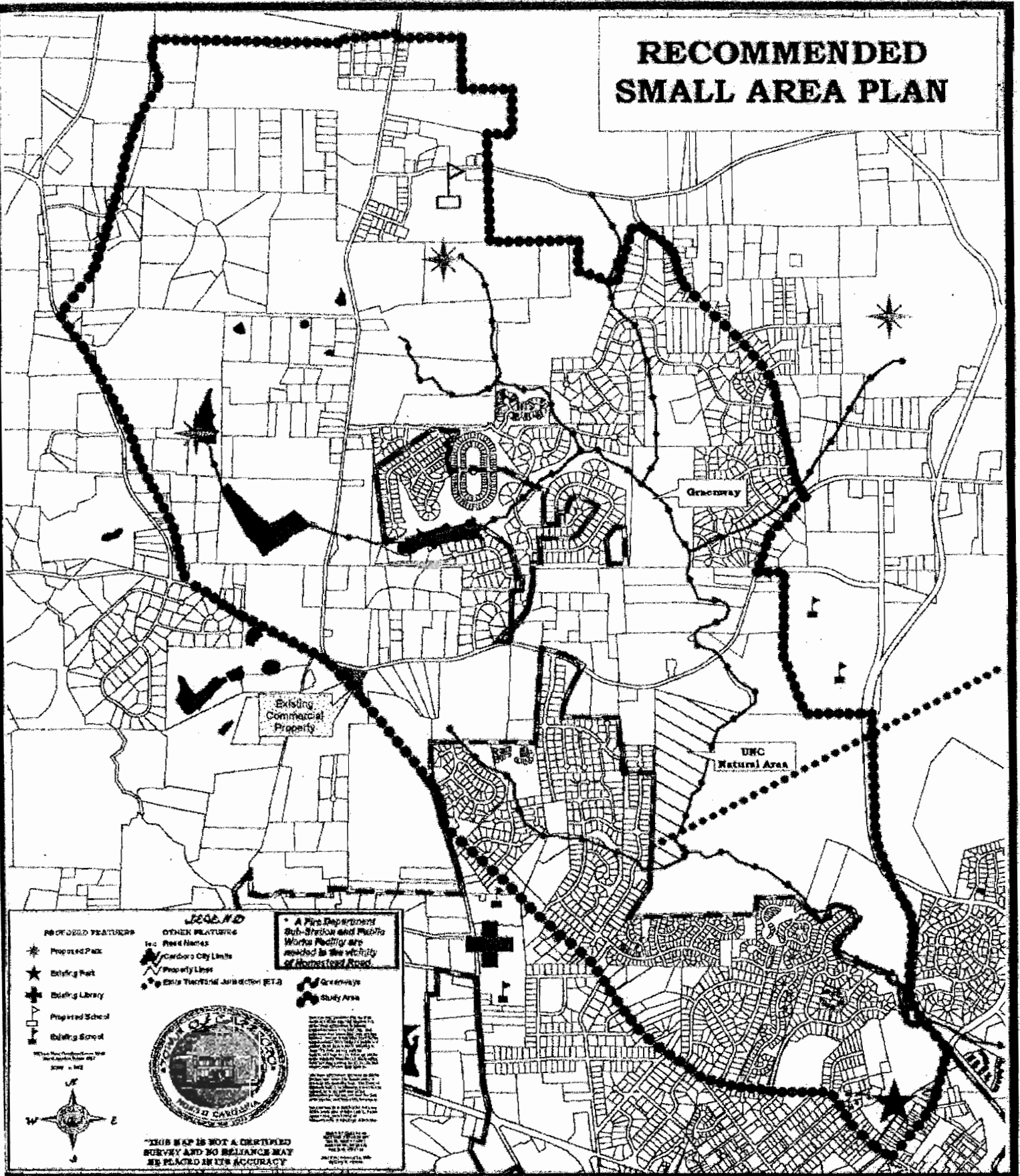
- e. August 1 to August 15 – Final drafts of ordinance amendments prepared by staff.
- f. August 28 – Board sets public hearing on proposed ordinance changes and refers ordinance to advisory boards and Orange County.
- g. September 6 to 20 – Planning Board and other advisory boards review proposed ordinance changes.
- h. September 8 – First public hearing notice published.
- i. September 15 – Second public hearing notice published.
- j. September 25 – Board of Aldermen conducts public hearing and considers adoption of ordinances.
- k. October 10 (or thereafter, depending on effective date) – moratorium expires.

Section 5. This ordinance shall become effective on the date it is approved by the Orange County Board of Commissioners, having first been adopted by the Carrboro Board of Aldermen. It shall remain in effect for a period of six months thereafter in accordance with its terms, except that, as provided in G.S. §160A-381, this ordinance shall not apply to:

- a. Any special or conditional use permit application that has been accepted by the town prior to the effective date of this ordinance. An application shall be regarded as accepted when it has been submitted for review in a manner that is sufficiently complete to enable the staff to undertake its normal review process and when all applicable fees have been paid to the town for the review of such application.
- b. Final subdivision plat approvals or requests for insignificant deviations from or minor modifications of existing special or conditional use permits...
- c. Any development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval.

MAP #7:

RECOMMENDED SMALL AREA PLAN



ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

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MEMORANDUM

TO: Craig Benedict – Planning Director
FROM: Michael D. Harvey – Planner II
CC: Robert P. Davis – Current Planning Supervisor
Geoffrey Gledhill – County Attorney
DATE: Wednesday, October 18, 2006
RE: REVIEW of recent amendment to North Carolina General Statutes concerning establishment of moratoriums by local governments.

As requested, please accept the following memorandum as an analysis of recent amendments to North Carolina General Statutes concerning the imposition of development moratoriums by local governments. The regulations concerning the procedure for a County to initiate a moratorium are covered under NCGS 153A-340 (h) while a municipality is bound by the procedures outlined under NCGS 160A-381 (e).

The request for this analysis was made after staff was informed that the Town of Carrboro was considering imposing a development moratorium within the Joint Planning Area (JPA) Transition Area of the County. As of this date, staff has not received any information concerning the proposal.

BACKGROUND:

A moratorium is loosely defined as a temporary cessation by a local government in granting permits allowing for the development of property while efforts are undertaken to review, analyze, or address concerns over conditions associated with a specific classification of development (i.e. residential, commercial, industrial, etc.) or over concerns arising out of allowing any and all development to occur within a specific area. Originally, the power of local

governments to initiate moratorium was viewed as an implied power but was never explicitly recognized within North Carolina General Statutes.

The explicit establishment of the authority for local governments to establish moratoriums was part of Senate Bill 814, An Act to Modernize and Simplify City and County Planning and Land-Use Management Statutes. The modifications were signed into law by Governor Easley on September 22, 2005 and are now referenced as Session Law 2005-426 (attached for reference). The new regulation not only seeks to formalize the process but to also codifies the constitutional limitations on the use of moratoria by local governments.

The new regulations governing the implementation of moratoriums are summarized as follows:

1. Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:
 - a. A clear statement of the problems or conditions necessitating the moratorium and what courses of action and what alternatives to the proposed moratorium were considered by the local government and why those alternative courses of action were not deemed adequate.
 - b. A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
 - c. An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
 - d. A clear statement of the actions, and the schedule for those actions, proposed to be taken by local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.
2. With respect to adoption local governments seeking to adopt moratoria, the following advertising standards apply:
 - a. A temporary moratoria of a sixty (60) day duration or less may be adopted with a public hearing that has one (1) notice published seven (7) days in advance, unless there is an imminent and substantial threat to public health and safety, in which case a public hearing is not required.
 - b. Longer moratoria, including extensions of temporary moratoria beyond sixty (60) days require the same notice and hearing as routine land use ordinance amendments (NCGS 153A-323).
3. Moratoria may be renewed or extended only if the government has taken all reasonable and feasible steps to address the problem leading to the moratorium and if new facts and conditions warrant an extension,
4. Unless there is an imminent threat to public health and safety, moratoria do not apply to projects that have already received a vested right under current law; nor do they apply to

preliminary or final plats or to special and conditional use permit applications that have been accepted for review prior to the call for a hearing on the moratorium,

5. Provision is also made within 153A-340(h) for expedited judicial review and the government has the burden of showing compliance with the procedural requirements of the statute in such challenges.

B. Whenever Chapel Hill or Carrboro receives an application for a development permit as defined in this Agreement relating to land within their respective portions of the Transition area, it shall forward copies of the application to Orange County for review. The towns shall establish timetables to insure that Orange County has an opportunity to make recommendations regarding such applications within the framework of the County's regularly scheduled meeting dates. To the extent possible, the timetables of the County and the towns shall provide for simultaneous review to expedite application processing; provided, however, the towns may not vote to issue or deny a permit until they have received the recommendations of Orange County or until the expiration of forty-five (45) days after orange County has received the application, whichever comes first.

Section 2.3
Permit
Administration
w/in the
Transition
Area

C. From time to time a development moratorium is appropriate in order to address exigent circumstances or the results of a study of density designations, plan classifications or other matters prescribed by the adopted Joint Planning Area Land Use Plan, the Joint Planning Area Land Use Map or any of the land use ordinances of the Town of Chapel Hill or the Town of Carrboro. To preserve the status quo pending the consideration of a land use ordinance amendment designed to address exigent circumstances or the results of a study, the Town of Carrboro or the Town of Chapel Hill may propose the adoption of a development moratorium pending consideration of the ordinance amendment. With respect to the CJDA, any proposed moratorium shall not be effective until adopted by the Town of Carrboro and approved by Orange County following a public hearing conducted by the Town of Carrboro. With respect to the CHJDA, any proposed moratorium shall not be effective until adopted by the Town of Chapel Hill and approved by Orange County following a public hearing conducted by the Town of Chapel Hill. Any such adopted and approved moratorium shall initially be no more than six months in duration and may be extended one time for no more than six months for the reasons and following the procedures prescribed here.