

**A RESOLUTION ADOPTING A STATEMENT EXPLAINING
THE BOARD OF ALDERMEN'S REASONS FOR ADOPTING
AN AMENDMENT TO THE TEXT OF THE CARRBORO LAND USE ORDINANCE
Resolution No. 160/2006-07**

WHEREAS, an amendment to the text 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 development moratorium on rezonings and special and conditional use permit applications for residential development in Carrboro's Northern Study Area

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 Vision 2020: Policies through the year 2020.

Section 2. The Board concludes that the above described amendment is consistent with Facilitated Small Area Plan for Carrboro's Northern Study Area.

Section 3. Such adoption of the above described amendment is reasonable and in the public interest because the Town of Carrboro supports the implementation of its Small Area Plan for the NSA.

Section 4. 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 OF THE CARRBORO LAND USE ORDINANCE
Resolution No. 161/2006-07

WHEREAS, an amendment to the text 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 development moratorium on rezonings and special and conditional use permit applications for residential development in Carrboro's Northern Study Area.

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 Vision 2020: Policies through the year 2020 and the Facilitated Small Area Plan for Carrboro's Northern Study Area.

Section 2. The Board concludes that its rejection of the above described amendment is reasonable and in the public interest because existing implementation practices, policies, and procedures are sufficient.

Section 3. This resolution becomes effective upon adoption.

ATTACHMENT C-1

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 for residential developments is also necessary to prevent decisions that could be inconsistent with the results of the planning process outlined above.

ATTACHMENT C-2

- i. A moratorium on the acceptance of special and conditional use permits for residential developments 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 residential developments within the Northern Study Area as shown on Attachment A. 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 26, 2007 or soon thereafter**, 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.

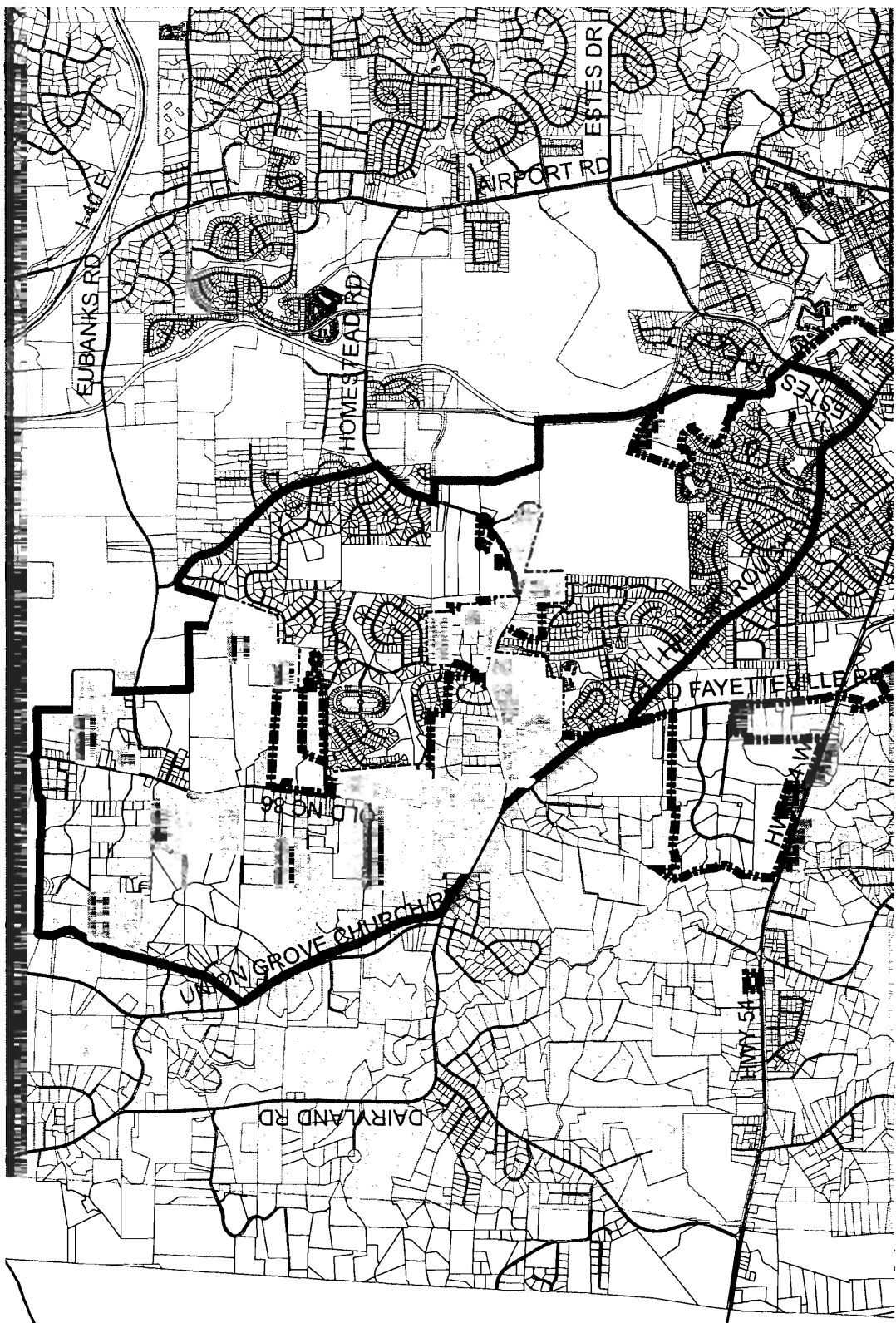
- a. NSA Plan Implementation Committee established by Board of Aldermen meets periodically during moratorium to review plan and organize community forums.
- b. April 14 – Community forum #1
- c. June 16 – Community forum #2
- d. June 17 to July 31– Committee meets to make recommendations based on staff analysis and community input; staff works with committee to prepare ordinance text and map revisions.

ATTACHMENT C-3

- e. August 1 to August 15 – Final drafts of ordinance amendments prepared by staff.
- f. August 24 – Draft ordinance submitted to Orange County
- g. August 28 – Board sets public hearing on proposed ordinance changes and refers ordinance to advisory boards.
- h. September 6 to 20 – Planning Board and other advisory boards review proposed ordinance changes.
- i. September 7 – First public hearing notice published.
- j. September 14 – Second public hearing notice published.
- k. September 25 – Board of Aldermen conducts public hearing and considers adoption of ordinances.
- l. October 26 (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.



The following resolution was introduced by Alderman Dan Coleman and duly seconded by Alderman Joal Hall Broun.

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 NSAPIRC. 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 April 14 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 12 – NSAPIRC meets to review agenda, materials, and notification strategies for Community Forum #1.
- 7) April 14 – Community forum #1
- 8) May 17 – NSAPIRC meets to review outcome of first forum and plan the second.
- 9) June 16 – Community forum #2

- 10) June 16 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 (scheduled for September 25), anticipating the Board of Aldermen action to set public hearing on August 28.
- 13) August 28 – Board sets public hearing on proposed ordinance changes (for September 25) 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.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 20th day of February 2007:

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

Noes: None

Absent or Excused: Alex Zaffron

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Randee Haven-O'Donnell.

A RESOLUTION ESTABLISHING A PROCESS TO REVIEW THE
IMPLEMENTATION OF THE FACILITATED SMALL AREA PLAN
FOR CARRBORO'S NORTHERN STUDY AREA
Resolution No.138/2006-07

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 27 – Board adopts revised process. Board directs staff to request participation from advisory boards and community members, as follows:

Group	#	Group	#
Planning Board	1	Economic Sustainability Commission	1
Appearance Commission	1	Northern Transition Area Advisory Commission	1
Environmental Advisory Board	1	New Horizons Task Force	1
Transportation Advisory Board	1	Town of Chapel Hill	1
Recreation and Parks Commission	1	Orange County	unspecified
Board of Aldermen	2	At-Large Carrboro residents	3
		UNC	1

It is expected that meetings will be held on the 3rd Thursday of each month in lieu of otherwise regularly scheduled advisory board meetings starting in March.

- 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 NSAPIRC. 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 April 14 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 12 – NSAPIRC meets to review agenda, materials, and notification strategies for Community Forum #1.
- 7) April 14 – Community forum #1
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- 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.

The foregoing resolution, having been submitted to a vote, received the following vote and was duly adopted this 27th day of February 2007:

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

Noes: None

Absent or Excused: John Herrera

ORANGE COUNTY PLANNING & INSPECTIONS DEPARTMENT
Craig N. Benedict, AICP, Director

Current Planning
(919) 245-2575
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www.co.orange.nc.us



306F Revere Road
P O Box 8181
Hillsborough,
North Carolina, 27278



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.

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.



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

March 1, 2007

Ordinance Establishing Six-Month Moratorium in Northern Study Area

Motion was made by Matthew Barton and seconded by Seth Chadbourne to nominate James Carnahan to represent the Planning Board on the committee to establish a six-month Moratorium in the Northern Study Area.

- VOTE: AYES: (8) Matthew Barton, James Carnahan, Seth Chadbourne, Lydia Lavelle, Heidi Paulsen, Susan Poulton, Mary Rabinowitz, Ande West; ABSENT/EXCUSED: (1) David Clinton
 • NOES (0); ABSTENTIONS (0).

Motion was made by Seth Chadbourne and seconded by Mary Rabinowitz to recommend the Board of Aldermen add an additional Planning Board seat in order that our Northern Transition Area representative is a part of the process.

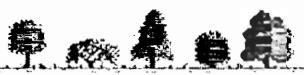
VOTE: AYES: (8) Matthew Barton, James Carnahan, Seth Chadbourne, Lydia Lavelle, Heidi Paulsen, Susan Poulton, Mary Rabinowitz, Ande West; ABSENT/EXCUSED: (1) David Clinton
 NOES (0); ABSTENTIONS (0).

James Carnahan _____ March 1, 2007
 James Carnahan, Chair (date)

Town of Carrboro
Environmental Advisory Board



RECOMMENDATION
March 8, 2007



Request from the Environmental Advisory Board that the Board of Aldermen approve the ordinance establishing a moratorium in the Northern Study Area provided that the ordinance meets the following conditions:

- 1) Town staff shall not consider or review any new concept plans for developments in the Northern Transition Area during the moratorium.
- 2) Those applicants who have already begun the concept plan review process must submit their special or conditional use permit applications prior to the effective date of the moratorium in order to continue the review process during the moratorium.

Please note that no participating advisory board members have any direct, substantial financial interest in the approval of these amendments.

VOTE via email: AYES (5) Bernstein, Buckner, Cors, Goers, Taylor; NOES (0);
ABSENT (1) Elting

Lauren Goers 3/8/2007
Lauren Goers, Chair March 8, 2007

*Orange County
Hillsborough
North Carolina*

Manager's Office

Established 1752

March 5, 2007

Mr. Steve Stewart
Town Manager
Town of Carrboro
301 West Main St.
Carrboro, NC 27510

Ms. Patricia J. McGuire, AICP
Planning Administrator
Town of Carrboro
301 West Main St.
Carrboro, NC 27510

Dear Mr. Stewart and Ms. McGuire:

SUBJECT: Carrboro Land Use Ordinance Text Amendment on Development Moratorium in Northern Study Area

After careful consideration of the Town's request for a 28-day review period of the draft ordinance, I will approve this slightly abridged period of consideration prior to the public hearing. Unfortunately the Carrboro meeting of March 27 conflicts with a BOCC meeting and County Commissioners will be unable to attend to hear the public's comments. As such, a decision by the BOCC on April 10, 2006 will be premature. While the Joint Planning Agreement requires a public hearing only by the town proposing a moratorium, the Board of County Commissioners want to receive public comment at the Joint Planning Area Public Hearing on April 26, 2007 prior to making a decision on the issue.

Orange County realizes the Town has an ambitious schedule in reviewing implementation strategies to accomplish the principles of the Northern Study Area Plan and does not wish to impose undue delays on getting the process underway. However, a development moratorium has potential impacts on local government revenues, the tax base, financial and real estate markets, and local businesses and their employees. The BOCC wants to be sure they have a through understanding of such impacts this decision will have on the community prior to approving your request for a moratorium.

On a related matter, I understand the Board of Aldermen adopted a revised resolution on February 27, 2007 allocating Orange County an undetermined number of seats on the proposed Northern Study Area Plan Implementation Review Committee. I will be placing this item on our March 13, 2006 agenda for appointments to the committee so our representatives can be involved as the process unfolds.

Mr. Stewart and Ms. McGuire
Page 2
March 5, 2007

As always, I enjoy working with you and the Town of Carrboro and look forward to hearing from you soon on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Laura Blackmon" followed by a stylized flourish.

Laura E. Blackmon
Orange County Manager

cc: Craig N. Benedict, AICP
Orange County Planning Director

Public Hearing Item (3)
 Table showing status of development applications in Northern Study Area.
 Revised **03-27-07**

	Type	Concept Plan Review	Concept Plan Approval/SUP or CUP Application	Subject to Moratorium (as of 3/27/07) ³
Tallyho/Colleton Crossing AIS	Residential	Underway	No/No	No ¹
Litchfield AIS	Residential	Yes	Yes/No	No ¹ Yes
Claremont II AIS	Residential	Yes	Yes/Yes	No
Carolina Commons	Residential	Yes	No/No	No ¹
Carolina North	Details not available	No	No/No	Yes
Twin Creeks Park	Recreational	No	No/No	No ²
Won Buddhism Center on Old NC 86	Community	No	NA/No	No ²
Ballentine AIS	Residential	Yes	Yes/Yes	No
Jones Property AIS	Residential	Yes	Yes/Yes(approved)	No
Elementary #10	Educational	NA	Yes/Yes(approved)	No
Claremont I AIS	Residential	Yes	Yes/Yes(approved)	No

¹ As drafted, concept plan review can continue. **Conditional use permit applications will not be accepted during moratorium.**

² As drafted, moratorium applies to residential projects only.

³ Final determination of projects that are subject to moratorium will occur if and when the moratorium is established by Board of Aldermen and approved by Board of County Commissioners.