

ATTACHMENT A-1

**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. 33/2010-11**

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 RELATING TO THE CREATION AND DEVELOPMENT OF FLAG LOTS AND OTHER LOTS THAT DO NOT SATISFY PRESUMPTIVE LOT WIDTH STANDARDS

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 specified in 2.11.

Section 2. The Board concludes that its adoption of the above described amendment is reasonable and in the public interest because the Town seeks to develop policies that mitigate adverse impacts of infill development, particularly related to roads and aesthetic compatibility.

Section 3. This resolution becomes effective upon adoption.

This the ____ day of _____, 20__.

Ayes:

Noes:

Abstentions:

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

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
RELATING TO THE CREATION AND DEVELOPMENT OF FLAG LOTS AND
OTHER LOTS THAT DO NOT SATISFY PRESUMPTIVE LOT WIDTH
STANDARDS

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 Town policies and regulations.

Section 2. The Board concludes that its rejection of the above described
amendment is reasonable and in the public interest because existing regulations are
appropriate.

Section 3. This resolution becomes effective upon adoption.

This the ____ day of _____, 20__.

Ayes:

Noes:

Abstentions:

**AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE
RELATING TO THE CREATION AND DEVELOPMENT OF FLAG LOTS AND
OTHER LOTS THAT DO NOT SATISFY PRESUMPTIVE LOT WIDTH STANDARDS.**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-183 of the Carrboro Land Use Ordinance is amended by redesignating subsection (c) as subsection (b) (there is no existing subsection (b)) and by adding new subsections (c) and (d) to read as follows:

(c) Within any residential zoning district, on lots that do not satisfy the presumptive lot width standards set forth in subsection (a)(2) of this section, the only residential use that shall be permissible is the use identified in the Table of Permissible Uses as use classification 1.111 (single family detached, one dwelling unit per lot, site built or modular).

(d) The creation of new flag lots (as defined in Subsection 15-15(40)) shall not be permitted except as authorized in Subsection 15-175.10(b).

Section 2. Subsection 15-15 (132) of the Carrboro Land Use Ordinance, the definition of the term "Subdivision, Minor," is amended to read as follows: "A subdivision of property located outside of the watershed districts that does not involve the creation of more than a total of four lots, the creation of any new public streets, or the creation of any new flag lots."

Section 3. Section 15-175.10 of the Carrboro Land Use Ordinance is amended to read as follows:

Section 15-175.10. Flag Lots in the Historic District

(a) In the Historic District (HD):

- (1) The street frontage of every flag lot shall be a minimum of twenty-four (24) feet.
- (2) No portion of any new dwelling unit on a flag lot may be located any closer than fifteen (15) feet from any property line or any closer than thirty (30) feet from any existing dwelling unit located on the lot from which the flag lot was created.
- (3) Every flag lot shall provide a Type B screen (as described in Section 15-307(1)) between the flag lot and adjacent property.

(b) The board of adjustment or board of aldermen, when approving subdivisions within their respective jurisdictions, may approve flag lots if they conclude that the access requirement set forth in Section 15-211 will be satisfied and such flag lot can be developed for purposes permissible in that district without creating any substantially adverse impact on adjoining developed properties.

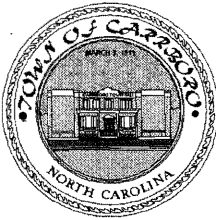
Section 4. Subsection 15-147(c) of the Carrboro Land Use Ordinance is amended to read as follows: "When used in connection with major subdivisions (use classification 26.100) outside the watershed districts, the designation "SC" means that subdivisions containing ~~between five and fewer~~

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than twelve lots shall require a special use permit, and subdivisions containing thirteen or more lots shall require a conditional use permit.”

Section 5. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 6. This ordinance shall become effective upon adoption.



TOWN OF CARRBORO

NORTH CAROLINA

MEMORANDUM

PLANNING DEPARTMENT

DELIVERED VIA: ☒ *HAND* ☐ *MAIL* ☐ *FAX* ☐ *EMAIL*

To: Steve Stewart, Town Manager
Mayor and Board of Aldermen

From: Marty Roupe, Development Review Administrator, and
Patricia McGuire, AICP, Planning Administrator

Date: October 22, 2010

Subject: Land Use Ordinance Text Amendment Related to Minimum Lot Widths and
Creation of Flag Lots

The draft ordinance includes the following changes:

1. Adds a provision that makes lots with widths that do not meet the presumptive standard usable for only single-family, one dwelling unit per lot, uses; and
2. Adds provisions referring approval of subdivisions with one or more flag lots to the Board of Adjustment and only allows for creation of flag lots in these situations; and
3. Modifies the existing definition of Minor Subdivision to not include the creation of any new flag lots; and
4. Revises LUO Section 15-175.10 so it applies to all flag lots, revises the title accordingly, and adds a performance standard related to access and affects on adjacent properties; and
5. Modifies the existing language regarding the permit level required for subdivisions to establish that the Board of Adjustment may review applications for 2-12 lots when one or more flag lots are proposed. The existing language only sends applications for 5-12 lots or units to the Board of Adjustment.

Analysis:

Over a number of years, staff has found that many lots have been created in a manner that does not include any public review, provision of recreational facilities or open space, or sufficient

provision of both public and private infrastructure. This has occurred to a large degree because state law exempts from the Town's regulatory authority certain types of subdivisions. The exemptions that have been used most frequently are: (1) "the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the [town];" and (2) "the division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the [town]." On occasion, these exemptions have been used in tandem to create a substantial number of lots with no regulatory oversight from the Town – e.g. the owner of several lots may recombine them to form new lots that are two acres or less in size, and then further divide each of the lots so created into three more lots.

The Town cannot change the statutory exemptions, but it is generally acceptable for a municipality to create minimum zoning related standards. These standards may, at times, make the exempt subdivision process less attractive since an applicant must meet all the applicable minimum lot standards of an ordinance. To date, the 'standards' referenced in the statutory definition have not been called out in Carrboro's Land Use Ordinance. Staff has typically interpreted minimum standards to include lot size, access, and presence/availability of utilities and lot width. Since the Town's lot width requirement is a recommendation and not a requirement, property owners have been able to merely include a note on a plat indicating that the right to request a variance related to setbacks is waived for any lot that does not meet the recommended lot width.

Staff has seen many situations where the exempt subdivision process is utilized, and difficult circumstances result involving the public realm and adjoining land uses. These impacts include but are not limited to the following: efficient and safe provision of public services such as trash and recycling pick up, less than ideal aesthetic and architectural results, a number of driveways inconsistent with surrounding properties where a proper intersection should be created, and safety and site distance issues. As an example, these types of developments often include multiple driveways adjacent to one another, thereby loading onto and off of an existing public street in an unpredictable manner. These types of designs break from the more uniform locations and distances from one driveway to the next and sometimes prove to disrupt harmony within an existing neighborhood. Resulting traffic impacts are an additional consideration. Driveways not meeting any particular standards often are serving multiple units and are carrying more traffic than designed to serve. This is especially true of situations where multiple units are proposed off a single driveway and where such lots are developed along major/arterial streets in Town. The nature of these developments currently holds that staff has no opportunity to request a traffic impact analysis to ascertain potential impacts to neighboring properties or the general public. For a number of years, staff has considered the extent to which the presence and simple allowance of flag lots were at least partially the reason such haphazard development has been taking place. Staff continues to recognize that the allowance of flag lots provides flexibility and has been beneficial in some locations.

Initially, within the miscellaneous text amendments offered to the Board of Aldermen in May, the concept of limiting the number of dwellings to a single home was proposed. In higher-density zoning districts (i.e. R-7.5, R-10), the creation of lots large enough for two or more dwelling units results from the exempt subdivision process. When combined with the maximum

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requirements for loading on private drives to three dwellings, property owners will seek to create many driveways in relatively close proximity in order to stay within the bounds of the definition's exemption. Furthermore, in all areas other than Historic Districts (of which there are none), the existing ordinance does not restrict the creation of flag lots, which facilitates the division of one lot into three, each with a narrow strip of frontage on a preexisting street.

Upon further consideration this summer, following the Board's questions and comments related to the proposed limitation on the use of lots not meeting the minimum width standard, staff determined that the public's interest may not be served by continuing to allow the creation of flag lots unabated. The proposed amendment provides that flag lots do not meet the basic lot standards of the ordinance and therefore do not meet the specified exemptions included in the definition above. Flag lots would be permissible through the major subdivision process, and could no longer be approved by the zoning administrator using the minor subdivision process. However, they would be approvable by the Board of Adjustment (for subdivisions of up to 12 lots) or Board of Aldermen (for larger subdivisions) through the major subdivision approval process.

Some communities have outright prohibitions on flag lots. The Board could consider doing so, but staff has not included it in this draft ordinance. Rather, the draft ordinance establishes a level of scrutiny for developments that involve flag lots based on related impacts of this type of development, consistent with the hierarchical permitting process throughout the Town's Land Use regulations. At a minimum, if the ordinance is adopted, it will be necessary to seek approval from the Board of Adjustment for any subdivision involving a flag lot.

Existing LUO provisions related to Draft Ordinance on Minimum Lot Widths and Creation of Flag Lots:**Section 15-183 Minimum Lot Widths.**

- (a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
- (1) Could be used for purposes that are permissible in that zoning district; and
 - (2) Could satisfy any applicable setback requirements for that district. Without limiting the generality of the foregoing standard, the following minimum lot widths are recommended and are deemed presumptively to satisfy the standard set forth in subsection (a). The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot. **(AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91)**

ZONE	LOT WIDTH
C	None
RR	100
R-20	100
R-15	85
R-10	75
R-S.I.R.	75
R-7.5	75
R-3	50

ZONE	LOT WIDTH
B-1(c)	None
B-1(g)	None
B-2	50
B-3	75
B-3-T	75
B-4	None
B-5	100
M-1	100
M-2	100
WM-3	100
WR	100
CT	100
R-2	100
O	75
O/A	75

- (c) No lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.

Section 15-15 Definitions of Basic Terms. (AMENDED 6/22/04; 5/24/05; 6/26/07; 6/24/08; 3/24/09; 6/22/10)

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

- (132) **SUBDIVISION, MINOR.** A subdivision of property located outside of the watershed districts that does not involve the creation of more than a total of four lots or the creation of any new public streets. **(AMENDED 7/21/87; 12/15/87; 6/22/10)**

Section 15-175.10. Flag Lots in the Historic District (AMENDED 11/21/95)

In the Historic District (HD):

- (a) The street frontage of every lot shall be a minimum of twenty-four (24) feet.
- (b) No portion of any new dwelling unit on a flag lot may be located any closer than fifteen (15) feet from any property line or any closer than thirty (30) feet from any existing dwelling unit located on the lot from which the flag lot was created.
- (c) Every flag lot shall provide a Type B screen (as described in Section 15-307(1)) between the flag lot and adjacent property.

Section 15-147 Use of the Designations Z,S,C in Table of Permissible Uses. (AMENDED 11/18/03; 6/22/04; 10/25/05; 11/22/05; 6/26/07; 11/27/07; 10/28/08)

(a) Subject to Section 15-148, and subsection (h) of this section, when used in connection with a particular use in the Table of Permissible Uses (Section 15-146), the letter "Z" means that the use is permissible in the indicated zone with a zoning permit issued by the administrator (except that, in connection with use classification 26.200, minor subdivisions, the letter "Z" means that final plat approval shall be granted by the Planning Director). The letter "S" means a special use permit must be obtained from the board of adjustment, and the letter "C" means a conditional use permit must be obtained from the Board of Aldermen. **(AMENDED 1/22/85; 11/18/03)**

(b) When used in connection with single-family, two-family and multi-family residences (use classifications 1.100, 1.200 and 1.300) outside the watershed districts, the designation "ZSC" or "SC" means that tracts developed with four dwelling units or less require a zoning permit, tracts developed with between five and twelve dwelling units require a special use permit, and tracts developed with more than twelve dwelling units require a conditional use permit. When used in connection with single-family, two-family, and multi-family residences in the watershed districts, the designation "ZC" means that tracts developed with one dwelling unit shall require a zoning permit and tracts developed with two or more dwelling units shall require a conditional use permit. **(AMENDED 1/22/85; 2/24/87; 12/15/87)**

(c) When used in connection with major subdivisions (use classification 26.100) outside the watershed districts, the designation "SC" means that subdivisions containing between five and twelve lots shall require a special use permit, and subdivisions containing thirteen or more lots shall require a conditional use permit. **(AMENDED 7/21/87; 12/15/87)**

(d) Subject to Section 15-148, use of the designation "ZC" means that a zoning permit must be obtained if the development is located on a lot of (i) one acre or less in the B-1(g), B-1(c), B-2, or B-3, or B-3-T zones, or (ii) two acres or less in all other zones, while a conditional use permit must be obtained for all developments on lots in excess of these limits. **(AMENDED 11/14/88)**

(e) Subject to Section 15-148, use of the designation "Z,S" means that a zoning permit must be obtained if the development is located on a lot of two acres or less while a special use permit must be obtained for developments in excess of two acres.

(f) Use of the designation Z,S,C, for combination uses is explained in Section 15-154.

(g) When used in connection with use classification 18.400 (publicly-owned towers and antennas of all sizes that are used in the provisions of public safety services), the designation "ZC" means that the development of such towers that are fifty feet tall or less shall require a zoning permit, and the development of such towers that are more than fifty feet tall shall require a conditional use permit. **(AMENDED 10/04/88, 02/18/97)**

(h) Whenever any 1.000 classification use is proposed for a lot in the R-2, R-3, R-7.5, and R-10 zoning districts and such use would otherwise require the issuance of a zoning permit under the provisions of this section, a special use permit shall nevertheless be required if:

(1) The use involves (i) construction of an addition to an existing dwelling, or (ii) construction of an additional dwelling on a lot where at least one dwelling already exists, or (iii) construction of a dwelling on a lot from which a previously existing dwelling has been removed within a period of three years prior to the application for a permit under this chapter, and

(2) The gross floor area of any one dwelling unit exceeds 3,500 square feet, or the gross floor area of all dwellings covered by the proposed permit exceeds 5,500 square feet.

- (3) This requirement shall not apply if at least one of the dwelling units is an affordable housing unit as defined in Section 15-182.4(a).
- (4) This requirement shall not apply with respect to a proposed one-time addition to a dwelling that has been in existence for a period of at least twenty years if such one-time addition results in less than a 25 percent increase in the gross floor area of such dwelling and less than a 15 percent increase in the gross floor area of all dwellings covered by the proposed permit.
- (i) When used in connection with 8.100, 8.200, 8.500 and 8.600 uses, the designation "ZC(I)" means that a zoning permit must be obtained if the total area within a development to be used for this purpose does not exceed 1,500 square feet and the use is to take place in a building in existence on the effective date of this subsection while a conditional use permit must be obtained whenever the total area to be used for this purpose is equal to or exceeds 1,500 square feet.
- (j) Notwithstanding the other provisions of this section, whenever a building of more than two stories or 35 feet in height is proposed within the B-1(g), B-1(c), B-2, CT or M-1 zoning districts, a conditional use permit must be obtained from the Board of Aldermen.
- (k) Notwithstanding the foregoing, Uses 22.200 Child Day Care Facilities serving nine to fifteen children, and 22.300 Senior Citizen Day Care, Class A, serving four to sixteen seniors, that are located on collector or arterial streets are permissible with a Zoning Permit issued by the Administrator. For the purposes of this section, collector streets are those streets whose function and design meet the current town standards for classification as collector streets; and arterial streets are those listed in subsection 15-210.
- L) Notwithstanding the foregoing, if a use within use classifications 2.112, 2.120, 2.150, 2.220, 2.230, 3.120, or 3.220 is proposed for an existing building within the WM-3 zoning district, and no other changes to the site are proposed that would require the issuance of a new permit under Section 15-46, then such use shall be permissible with a zoning permit. **(Amended 10/28/08)**
- M) Notwithstanding the foregoing, 5.110 uses may be permitted within the B-4 zoning district only when proposed within an existing building and when no other changes to the site are proposed that would require the issuance of a new permit under Section 15-46. **(AMENDED 11/24/09)**



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****THURSDAY, OCTOBER 21, 2010**

**Land Use Ordinance Text Amendment Revising the
Carrboro Land Use Ordinance Relating to the Creation and Development of Flag
Lots and Other Lots That Do Not Satisfy Presumptive Lot Width Standards**

Motion was made by David Clinton and seconded by Susan Poulton that the Planning Board recommends that the Board of Aldermen adopt the draft ordinance as presented by staff, with the following comments:

1. In light of the draft ordinance, the reference to section 15-211 is not sufficiently determinative. Therefore, the Planning Board recommends that a set minimum width for emergency access be applied.
2. For the purpose of clarity, the Planning Board recommends that section 15-275.10(b) of the draft ordinance be moved above section 15-275.10(a).

VOTE: AYES: (6) Barton, Clinton, Jaimeyfield, Poulton, Seils, Shoup; Absent/Excused: (3) Fritz, Oxley, Williams; NOES: (0); Abstentions: (0)

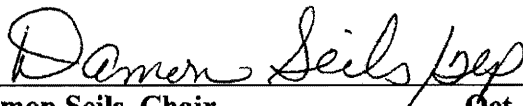
Associated Findings

By a unanimous show of hands, the Planning Board membership also indicated that no members have any financial interests that would pose a conflict of interest to the adoption of this amendment.

Furthermore, the Planning Board of the Town of Carrboro finds that the proposed text amendment is consistent with Carrboro Vision 2020 policies specified in 2.11 related to the appropriateness of infill development.

Motion in support of this finding was made by Poulton and seconded by Clinton.

VOTE: AYES: (6) Barton, Clinton, Jaimeyfield, Poulton, Seils, Shoup; Absent/Excused: (3) Fritz, Oxley, Williams; NOES: (0); Abstentions: (0)



 Damon Seils, Chair Oct. 22, 2010