

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. 47/2010-11

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, the only residential use that shall be permissible on flag lots (as defined in Subsection 15-15(40)) 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), unless a more intensive residential use is specifically authorized when the creation of the flag lot is approved as provided in Subsection 15-175.10(a). Notwithstanding the foregoing, this subsection shall not apply to flag lots approved prior to the effective date of this subsection. For purposes of this subsection, a lot within a major subdivision shall be regarded as "approved" on the date a preliminary plat showing such lot was approved by the board of aldermen or the board of adjustment (by a favorable vote on a conditional or special use permit application), and a lot within a minor subdivision shall be regarded as approved on the date a certificate of approval was signed by the manager.

(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); provided that, this subsection shall not apply to lots approved prior to the effective date of this subsection. For purposes of this subsection, a lot within a major subdivision shall be regarded as "approved" on the date a preliminary plat showing such lot was approved by the board of aldermen or the board of adjustment (by a favorable vote on a conditional or special use permit application), and a lot within a minor subdivision shall be regarded as approved on the date a certificate of approval was signed by the manager.

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) 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.

(b) 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.

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 twelve or fewer~~ lots shall require a special use permit, and subdivisions containing thirteen or more lots shall require a conditional use permit."

Section 5. Subsection 15-50(a) of the Carrboro Land Use Ordinance is amended to read as follows: "Before submitting an application for a conditional or special use permit for a major subdivision containing five or more lots, the applicant shall comply with the requirements of this section."

Section 6. Subsection 15-48.1(a) of the Carrboro Land Use Ordinance is amended to read as follows: "Prior to submitting an application for a special or conditional use permit for a development or for a subdivision containing five or more lots, the applicant shall comply with the requirements of this section.

Section 7. The last sentence in subsection 15-88.1(a) of the Carrboro Land Use Ordinance is amended to read as follows: "Notwithstanding the foregoing, this subsection shall not apply to special or conditional use permits for residential developments of less than five lots or dwelling units in the WR, B-5, or WM-3 zoning districts.

Section 8. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 9. 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: November 19, 2010

Subject: Typical Process expected for Non-AIS Subdivisions Containing Flag Lots and
Miscellaneous Issues

Anticipated Review Process for Flag Lot SUPs:

Below please find a description of the anticipated review process for Special Use Permits (SUPs) related to non-AIS subdivisions containing flag lots and associated information. In general, staff anticipates the review process would be similar to the existing process for Watershed Residential subdivisions where no present plan to develop the property exists. For such situations, no stormwater engineering is needed, nor is any lengthy review by the Town Engineer usually needed. Along with a Land Use Permit Application, applicable fee, and associated explanatory information, a plat will need to be submitted for review, as is the case currently for exempt and minor subdivisions. The plat must show lot sizes and measurements, access to a public road, and any new lots must be configured so that they are reasonably buildable/usable. Details regarding what happens upon submittal follow:

- Upon submittal, staff distributes the plat and associated materials to the necessary reviewers. For virtually every exempt subdivision plat review, this list currently includes: Zoning, Public Works, GIS Administrator, NCDOT (in some situations), and OWASA (or Orange County Environmental Health for 10+ acre exempt subdivisions). If the text amendment is approved, staff anticipates sending applicable applications to the following additional agencies: NCDOT (if access involves a state-maintained road), Orange County Solid Waste (Public Works and OCSW would consider refuse and recycling service issues), Transportation Planner (to consider access issues and related LUO requirements), and Fire Department (to consider access issues related to fire and emergency services).

The preceding list should capture the full extent of most situations, but it is worth noting that the individual circumstances involved in any particular application may dictate that it is necessary to send to additional reviewers not mentioned. This is currently the case and therefore is not a change resulting from the proposed SUP review.

- Plan reviewers offer comments and the applicant responds, back and forth, until all necessary comments are satisfied. Again, this is currently the case and therefore is not a change resulting from the proposed Flag Lot SUP review. Since more reviewers are involved, it is fair to expect that some number of additional comments may result from the reviews, but since the stated purpose of the review is to consider access and safety issues, the scope and number of comments should remain narrow and relatively few.
- For zoning review of subdivisions that are currently considered to meet the state exemptions, the major difference is that the SUP review process will necessitate a determination that a subdivision complies with the LUO similar to minor subdivision review. This is in contrast to the more simple 'zoning standards only' assessment in review, i.e.: lot size, access, and presence/availability of utilities and lot width. That said the extent of applicable requirements is expected to remain limited so long as the applicant does not have a present plan to develop. In other words, if the applicant only wants to create additional lots, not actually develop them presently, then demonstrating LUO compliance should remain relatively simple, and include but not be limited to: identification of stream buffers and special flood hazard areas, and provision of a sidewalk along existing street frontage when the sidewalk is identified on the Town's Sidewalk Master Plan.
- Some additional LUO-related requirements may be imposed by the Board of Adjustment during the public review process, based on information they receive for and during the public hearing. Such requirements may include but are not necessarily limited to: creation of a shared driveway/private road potentially needing to meet LUO standards in lieu of multiple, individual driveways; further discussion of the possibility of a public street and/or street connectivity, where such connectivity is potentially desired; and location of rare and large trees as their location relates to where a flag is proposed (i.e.: applicant may be required to move location of flag to accommodate saving a rare or large tree). Similar to an earlier explanation, the number of requirements imposed should be relatively minimal, so long as the applicant does not have a present plan to actually develop the lots created.

Compliance with other LUO sections such as parking, recreation facilities and open space, stormwater review, etc will be demonstrated, where applicable, during review of an application to actually build on the lot(s) created.

- Also included in the new process, obviously, is a public review component. As a SUP, notice of the public hearing will be sent to neighboring property owners, and renters where possible, within 500-feet of the subject property. Note that staff has written the proposed ordinance in such a way that the process would not involve: a concept plan review process with staff before submitting, a concept review with the advisory boards, or

a final review with the advisory boards before the public hearing. In other words, the applicant will move straight to the review process itself, with a public hearing at the end of the review. As with all SUPs and CUPs, staff would recommend the applicant consider holding a Neighborhood Information Meeting (NIM) early in the review process to inform neighbors of what is proposed, but the NIM would not be required.

Miscellaneous Issues:

- Applicable Fee: Staff proposes a fee of \$300.00. This is the same amount currently charged for a Watershed Residential subdivision of four (4) or fewer lots. Given that the anticipated process is similar in nature, this same fee seems appropriate.
- Consideration by Affordable Housing Agencies: Staff met with representatives of Empowerment, Inc, Community Home Trust, and staff of the HOME Consortium to discuss the draft ordinance. The consensus of the participants was that first, duplexes/multi-family units on flag lots may be acceptable, if approved as proposed through a plat review that involved public notice and a public hearing (The draft ordinance has been revised to reflect this recommendation). Second, that public review, a public hearing and the additional time it is expected to involve so long is acceptable, so long as the engineering/plat/plan submittal requirements are not significantly different than they would be otherwise. The affordable housing participants emphasized that communicating with neighboring property owners of these kinds of changes is better for affordable housing in general and for the future residents of any affordable units that are developed.
- Explanation of changes to draft ordinance since last meeting:
 - Revised in subsections (c) and (d) under Section 1 to clarify that these provisions do not apply to previously approved lots, and
 - Further revised subsection (c) under Section 1 to:
 - change the basic limitation to only apply to flag lots rather than any lot not meeting the presumptive lot widths, and
 - provide for a more intensive use to be approved at the time the flag lot is approved, if the Board of Adjustment finds the more intensive use suitable (Note that this change does not apply to pre-existing lots. In other words, flag lots may only be created with approval from the Board of Adjustment; and, only the Board of Adjustment may approve the right to build more than a single-family dwelling on any such lot.), and
 - Adds new sections 5 and 6 clarifying that the site planning procedures apply to subdivisions of five or more lots and that the concept plan review procedures apply to developments or subdivisions containing five or more lots, not Flag Lot SUP applications.

**CONTINUATION OF PUBLIC HEARING TO CONSIDER LUO TEXT AMENDMENT
RELATED TO FLAG LOTS AND MINIMUM LOT WIDTHS**

At its June 22, 2010 and September 28, 2010 meetings, the Board of Aldermen continued the public hearing for a potential Land Use Ordinance text amendment related to minimum lot widths. Staff recommended approval of a resolution finding consistency and an ordinance amending Section 15-183 of the Carrboro Land Use Code.

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

Alderman Lydia Lavelle suggested that the order of 15-175.10 (a) and (b) be reversed.

Ken Gorfkle, no address given, stated that he feels he is a victim of bad timing because he has been marketing a house on Greensboro Street with the plan to subdivide the parcel into three lots to facilitate the sale. He explained that he applied for a subdivision and was informed of the pending amendment at that time. At this time, he is very close to entering into a contract for the sale. If the resolution passes, his application will be required to go before the Board of Adjustment to create a new flag lot and may take 60-90 days rather than 2-4 weeks. He explained that the timeliness of the process has the potential of harming the sale and asked for Board relief on his plat that is pending.

MOTION WAS MADE BY ALDERMAN DAN COLEMAN AND SECONDED BY ALDERMAN JOAL HALL BROUN TO CONTINUE THE PUBLIC HEARING TO CONSIDER LUO TEXT AMENDMENT RELATED TO FLAG LOTS AND MINIMUM LOT WIDTHS TO NOVEMBER 23, 2010. VOTE: AFFIRMATIVE ALL.