

A RESOLUTION ACCEPTING A REPORT ON LAND USE ORDINANCE  
PROVISIONS RELATING TO BOARD OF ADJUSTMENT AND BOARD OF  
ALDERMEN JURISDICTION OVER USES OTHERWISE PERMISSIBLE WITH A  
ZONING PERMIT

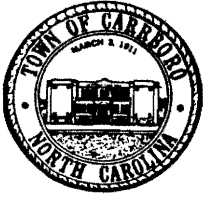
Draft Resolution No. 170/2011-12

WHEREAS, the Board of Aldermen requested an opportunity to review permit requirements as they relate to development projects requiring only a Zoning Permit; and

WHEREAS, Town Staff has prepared information to support the Board's discussion.

NOW, THEREFORE BE IT RESOLVED that the Carrboro Board of Aldermen hereby accept the report on the Land Use Ordinance Provisions Relating to Board of Adjustment and Board of Aldermen Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit. The Board requests the following follow-up actions as a result of its discussion:

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**MEMORANDUM**

**TO:** Steve Stewart, Town Manager

**CC:** Mayor Mike Nelson and the Board of Aldermen; Roy Williford, *AICP*,  
Planning Director

**FROM:** Marty Roupe, Development Review Administrator

**DATE:** August 26, 2004

**SUBJECT:** Explanation of LUO Provisions that Determine the Permit-Issuing Authority  
for Development Projects

In response to an inquiry coming through the Manager's office, staff has prepared the following memorandum regarding what party acts as the permit-issuing authority for development projects. I am happy to answer any questions that may arise about this matter.

To begin and as background, it is important to note that the Town's Land Use Ordinance (LUO) makes an important distinction between two kinds of land use permits: non-discretionary (i.e.: Zoning Permits, or ZPs) and discretionary (i.e.: Special Use Permits, or SUPs, and Conditional Use Permits, or CUPs). The general philosophy behind this distinction holds that certain land uses are inherently acceptable in certain situations and/or in certain zoning districts, while other land uses may be acceptable, but only after undergoing a public process, which allows either elected or appointed officials to review what is proposed. These distinctions are further described below, along with further explanation of what types of projects go to which permit-issuing authority:

Discretionary versus Non-Discretionary Review.

- In the case of ZPs, the permit is issued administratively. Public notification is rarely involved because the land use is generally considered inherently acceptable by its ZP classification. It should be noted that staff cannot place discretionary conditions on a zoning permit. Essentially, if a project complies with all provisions of the Town's LUO, then staff is obligated to issue the ZP;
- In the case of SUPs and CUPs, permits are only issued if and when the permit-issuing authority (Board of Adjustment for SUPs and Board of Aldermen for CUPs) feels it is appropriate to do so. Before granting or denying an SUP or CUP, the permit-issuing

## Attachment B-2 (current)

authority reviews the project and holds a public hearing to receive public comment. The decision is then based on whether or not the Board feels the public health, safety, and welfare will be endangered as a result of the project. The exact conditions that both Boards must consider are found in Section 15-54 of the LUO (**Attachment A**). As the Board knows, it is possible for conditions to be added to both SUPs and CUPs to address public health, safety, and welfare issues;

- SUPs and CUPs essentially are equal with respect to LUO requirements in that they both require discretionary review and a public hearing prior to the issuance of a permit. One distinction between the two is that public notification is sent to property owners and renters within 500-feet of the property for SUPs, where notification is sent to property owners and renters within 1000-feet of the property for CUPs;
- Please note that the type of permit required is a result of policy decisions made by past Boards of Aldermen. In explanation, the Board originally adopted the LUO in 1980, and the Board has approved of any and all modifications to the document since that time. Accordingly, the type of permit required for any type of project is subject to change whenever the Board sees fit to amend the LUO. So, any non-discretionary permit (ZP) potentially can be changed to a discretionary permit (SUP or CUP) or vice-versa, and any SUP can be changed to a CUP or vice-versa;
- Historically, discretionary permits have been split between the Board of Adjustment and Board of Aldermen according to the presumed potential impact of a project. In other words, SUPs are assigned to the Board of Adjustment for projects where the presumed potential impact is localized to the vicinity where the project is proposed. CUPs, on the other hand, are assigned to the Board of Aldermen for projects where it is presumed that the potential impact may be felt "town-wide;"

### LUO Provisions Related to Permit-Issuing Authority.

- When a development application is received, staff inspects the details of what is proposed and compares it to the information found in LUO Sections 15-146, 'Table of Permissible Uses' (**Attachment B**), and 15-147, 'Use of the Designations Z, S, C in the Table of Permissible Uses' (**Attachment C**). These two sections, with some exceptions noted below, are the primary determinants for deciding what party grants or denies a Land Use Permit;
- The 'table of permissible uses' sometimes simply contains either a "Z," "S," or "C," for a particular use in a particular district. In these situations, a "Z" requires a Zoning Permit (ZP), an "S" requires a Special Use Permit (SUP), and a "C" requires a Conditional Use Permit (CUP). Please note, when inspecting the 'table of permissible uses,' that a use is not allowed in a particular district if its corresponding box is empty;
- In many situations, however, the 'table of permissible uses' contains multiple letters and/or an asterisk ("\*\*"). In these cases, staff must consider the language found in Section 15-147, 'Use of the Designations Z, S, C in the Table of Permissible Uses.' Specifically, 15-147 outlines various factors to be considered when determining the permit-issuing authority for a project. Some examples are found below:

- In example, the determination for residential projects usually is based on the number of units and/or lots proposed, with:
  - one to four (1-4) units or lots requiring a ZP,
  - five to twelve (5-12) units or lots requiring an SUP, and
  - thirteen (13) or more units or lots requiring a CUP,
- As another example, the determination for commercial projects typically is based on the size of the lot, with projects in most business zones requiring:
  - A ZP on a lot less than one acre in size, and
  - A CUP for lots greater than one acre in size,

The preceding examples are not intended to represent all factors or possibilities, but they do represent a good overview of how Sections 15-146 and 15-147 work;

- Provisions found elsewhere in the LUO sometimes dictate that certain permits are required, even when the 'table of permissible uses' might lead one to believe otherwise. Some examples are offered below in explanation:
  - Recently adopted LUO provisions relating to building heights in the downtown area dictate that a CUP is required when a building exceeds two (2) stories in the B-1(c) district and three (3) stories in the B-1(g) district,
  - Also, recently adopted LUO provisions relating to Conditional Use Districts dictate that a CUP is required whenever an application is submitted involving a Conditional Use rezoning.

Again, the preceding examples are not intended to represent all such provisions found in the LUO, but they are representative examples of how provisions outside of Sections 15-146 and 15-147 potentially change the type of permit otherwise required;

- Also of note, Section 15-148, 'Board of Adjustment Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit,' (see **Attachment C, Page 2**) allows staff to require an SUP or a CUP, where only a ZP otherwise would be required, in certain, specific situations that potentially involve a substantial impact to neighboring properties. It should be noted, however, that Section 15-148 does not allow staff to determine that a CUP should be required in a situation where an SUP already is required;
- Following are a few specific examples of recently approved and/or constructed projects to help demonstrate how the information included above works:
  - 605 West Main Street. This project is being built on a lot less than one acre in size. An office building of up to three (3) stories can be built in this zoning district with a ZP according to the 'table of permissible uses' (the building was reviewed and approved as a three-story building with parking beneath the building); however, this building will contain seven (7) dwelling units, which requires an SUP. Therefore, an SUP is the controlling permit required. As mentioned above, Section 15-148 of the LUO does not allow a project requiring an SUP to be raised to the level of a CUP,
  - Sheryl-Mar II, 517 S. Greensboro Street. This project is a three (3) story building built on approximately one and one-half (1 ½) acres of land just north of the Highway

- 54 Bypass/Smith Level Road intersection. Since it is located in an M-1 (Manufacturing-1) zoning district, a ZP was required for construction of the three (3) story building on a lot less than two (2) acres in size,
- McFall Watershed Residential Subdivision, Lavinia Lane. This project involved the creation of three (3) single-family lots from seventeen and one-half (17 ½) acres of land in the Watershed Residential (WR) zoning district. Even though only three (3) lots were created, a CUP was required. With the exception of certain subdivisions exempt from local regulation (by state law), any subdivision of land in the WR district requires a CUP,
  - Provence Restaurant, 203 West Weaver Street. This restaurant moved into an existing mill house along Weaver Street. A CUP was required before the move could be completed because of the property's B-2 zoning classification, even though they only proposed to inhabit an existing building.

**LUO Excerpt:**

**Section 15-54 Special Use Permits and Conditional Use Permits (AMENDED 6/28/05).**

(a) An application for a special use permit shall be submitted to the board of adjustment by filing a copy of the application with the administrator in the planning department.

(b) An application for a conditional use permit shall be submitted to the Board of Aldermen by filing a copy of the application with the administrator in the planning department.

(c) The board of adjustment or the Board of Aldermen, respectively, shall issue the requested permit unless it concludes, based upon the information submitted at the hearing, that:

- 1) The requested permit is not within its jurisdiction according to the table of permissible uses;
- 2) The application is incomplete, or
- 3) If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations);
- 4) If completed as proposed, the development, more probably than not:
  - a) Will materially endanger the public health or safety; or
  - b) Will substantially injure the value of adjoining or abutting property; or
  - c) Will not be in harmony with the area in which it is to be located; or
  - d) Will not be in general conformity with the Land Use Plan, Thoroughfare Plan, or other plans officially adopted by the Board.

August '04:

# TABLE OF PERMISSIBLE USES

Last Amended: 6/22/10

DESCRIPTION	R-2	R-3	R-7.5	R-S1R, S1R2, 10	R-15	R-20	RR	B-1 (C)	B-1 (G)	B-2	B-3	B-3-T	B-4	M-1	M-2	CT	C	W-R	B-5	WM-3	O	O/A
<b>1.000 Residential</b>																						
1.100 Single Family Residences																						
1.110 Single Family Detached																						
One Dwelling Unit Per Lot																						
1.111 Site Built/Modular	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z				Z		Z			Z	Z
1.112 Class A Mobile Home			Z	Z	Z	Z	Z										Z					
1.113 Class B Mobile Home																						
1.120 Single Family Detached																						
More Than One Dwelling																						
Unit Per Lot																						
1.121 Site Built/Modular	*	*	*	*	*	*	*		*	*	*	*				*					*	*
1.122 Class A Mobile Home			*	*	*	*	*															
1.123 Class B Mobile Home																						
1.200 Two-Family Residences																						
1.210 Two-Family Conversion	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.220 Primary Residence with																						
Accessory Apartment	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.230 Duplex	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.231 Maximum 20% units																						
> 3 bedrms/du	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.232 No bedroom limit	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.240 Two Family Apartment	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.241 Maximum 20% units																						
> 3 bedrms/du	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.242 No bedroom limit	*	*	*	*	*	*	*	*	*	*	*	*				*					*	*
1.300 Multi-Family Residences																						
1.310 Multi-Family Conversion	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.320 Multi-Family Townhomes	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.321 Maximum 20% units																						
> 3 bedrms/du	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.322 No bedroom limit	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.330 Multi-Family Apartments	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.331 Maximum 20% units																						
> 3 bedrms/du	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.332 No bedroom limit	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC					SC	SC
1.340 Single-Room Occupancy	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC			SC						
1.400 Group Homes																						
1.410 Fraternities, Sororities,																						
Dormitories and Similar																						
Housing	C	C	C	C	C	C	C		C	C						C						
1.420 Boarding Houses,																						
Rooming Houses	S	S	S	S	S	S	S		C	S						C		C				
1.430 Adult Care Home, Class A	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z				Z		Z			Z	Z
1.440 Adult Care Home, Class B	S	S	S	S	S	S	S		Z	Z	Z	Z				Z		Z			Z	Z
1.450 Child Care Home, Class A	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z				Z		Z			Z	Z
1.460 Child Care Home, Class B	S	S	S	S	S	S	S		Z	Z	Z	Z				Z		Z			Z	Z
1.470 Maternity Home	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z				Z		Z			Z	Z
1.480 Nursing Care Home	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z				Z		Z			Z	Z
1.500 Temporary Residences																						
1.510 Tourist Homes and other																						
Temporary Residences																						
Renting Rooms for																						
Relatively Short																						
Periods of Time	S	S	S	S						S									C			
1.600 Homes Emphasizing Services,																						
Treatment or Supervision																						
1.610 Temporary Homes for the																						
Homeless		S	S				S	S		S	S	S										
1.620 Overnight Shelters for																						
Homeless								S		S	S	S										
1.630 Senior Citizen Residential																						
Complex				C	C																	
1.700																						
1.800																						
1.900 Home Occupation	Z	Z	Z	Z	Z	Z	Z			S	S	S				S		Z			Z	Z

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<b>2.000 Sales and Rental of Goods, Merchandise and Equipment</b>																						
2.100 No Storage or Display of Goods Outside Fully Enclosed Building																						
2.110 High-Volume Traffic Generation								ZC	ZC		ZC	ZC	ZC	ZC	ZC	C			C			ZC
2.111 ABC Stores								ZC	ZC		C	C	C			C						
2.112 Specialty High Volume Retail										ZC										C		
2.120 Low-Volume Traffic Generation								ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	C			C	C		ZC
2.130 Wholesale Sales									ZC			ZC	ZC	ZC	ZC	C			C	C		ZC
2.140 Drive-In Windows											C	C	C	C								
2.150 Retail Sales with Subordinate Manufacturing and Processing								ZC												C		
<b>2.200 Display of Goods Outside Fully Enclosed Building</b>																						
2.210 High-Volume Traffic Generation								ZS	ZS					ZC	ZC	ZC			C	C		ZC
2.220 Low-Volume Traffic Generation								ZS	ZS					ZC	ZC	ZC			C	C		ZC
2.230 Wholesale Sales									C					ZC	ZC	ZC			C	C		ZC
2.240 Drive-In Windows											C	C		C								
<b>2.300 Storage of goods outside fully enclosed building</b>																						
2.310 High-volume traffic generation															ZC							
2.320 Low-volume traffic															ZC							
2.330 Wholesale Sales															ZC							
2.340 Drive-in Windows																						
<b>3.000 Office, Clerical, Research and Services Not Primarily Related to Goods or Merchandise</b>																						
3.100 All operations conducted entirely Within Fully Enclosed Building																						
3.110 Operations designed to attract and serve customers or clients on the premises, such as the office of attorneys, physicians, other professions, insurance and stock brokers, travel agents, government office buildings, etc.								ZC	ZC	ZC	S		ZC	ZC	ZC	C			C		ZC	ZC
3.120 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use								ZC	ZC	ZC	S		ZC	ZC	ZC	C			C	C	Z	ZC
3.130 Office or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area								ZC	ZC	ZC	S		ZC	ZC		ZC			C		ZC	ZC
3.140 Watershed research																	C					
3.150 Copy Centers/Printing Operations								ZC	ZC	ZC	S	ZC	ZC	ZC	ZC	ZC			ZC		ZC	



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3.200 Operations conducted within or outside fully enclosed buildings																						
3.210 Operations designed to attract and serve customers or clients on the premises															ZC	ZC			C			ZC
3.220 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use															ZC	ZC	C		C	C		ZC
3.230 Banks with drive-in window											C	C	C			C						
3.240 Watershed research																	C					
3.250 Automatic Teller Machine, Freestanding								C	C		C		C			C					C	C
4.000 Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise and Equipment																						
4.100 All operations conducted entirely within fully enclosed buildings									ZC						ZC	ZC	C			C		C
4.200 Operations conducted within or outside fully enclosed buildings																ZC						
5.000 Educational, Cultural, Religious, Philanthropic, Social, Fraternal Uses																						
5.100 Schools																						
5.110 Elementary and secondary (including associated grounds and athletic and other facilities)	C	C	C	C	C	C	C	C	C					Z(1)				Z	C			
5.120 Trade or vocational school								Z	ZC					C	ZC	C	C		C			
5.130 Colleges, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)							C	Z	ZC				C	C		C						
5.200 Churches, synagogues and temples (including associated residential structures for religious personnel and associated buildings but not including elementary school or secondary school buildings)	ZS	ZS	ZS	ZS	ZS	ZS	ZS	Z	ZS	ZS	ZS	ZS	ZS	ZS	ZS	ZS		C	C		ZS	ZS
5.300 Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities)																						
5.310 Located within a building designed and previously occupied as a residence or within a building having a gross floor area not in excess of 3,500 square feet	S	S	S	S	S	S	S	ZS	Z	Z	Z	Z	S	ZS		ZS			C		Z	ZS
5.320 Located within any permissible structures								ZS	ZS	ZC			S	ZS		ZS			C		C	ZS
5.400 Social, fraternal clubs and lodges, union halls, and similar uses								ZS	ZS	ZS			S	S		ZS			C			
6.000 Recreation, Amusement, Entertainment																						
6.100 Activity conducted entirely within building or substantial structure																						
6.110 Bowling alley, skating rinks, indoor tennis and squash courts, billiards and pool halls, indoor athletic and exercise facilities and similar uses								ZS	ZS		ZS	ZS	ZS	ZS		ZS			C			

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6.120 Movie Theaters																						
6.121 Seating capacity of not more than 300								ZS	ZS				ZS	S		ZS						S
6.122 Unlimited Seating Capacity								S	ZS				ZS	S		ZS						
6.130 Coliseums, stadiums, and all other facilities listed in the 6.100 classification designed to seat or accommodate simultaneously more than 1000 people								C	C				C	C		C						
6.140 Community Center--a Town sponsored, non-profit indoor facility providing for one or several of various type of recreational uses. Facilities in a Community Center may include, but are not limited to gymnasias, swimming pools, indoor court areas, meeting/activity rooms, and other similar uses	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z		Z	Z		Z
6.150 Electronic Gaming Operations													S									
6.200 Activity conducted primarily outside enclosed buildings or structures																						
6.210 Outdoor recreational facilities developed on private lands, without Town sponsorship or investment, such as golf and country clubs, swimming or tennis clubs, etc. and not constructed pursuant to a permit authorizing the construction of a residential development.	S	S	S	S	S	S	S		C							C	C	C	C			
6.220 Outdoor recreational facilities developed on public lands, or on private lands with swimming pools, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school																						
6.221 Town of Carrboro owned and operated facilities.	Z	Z	Z	Z	Z	Z	Z	Z	Z				Z	Z		Z	Z	Z	Z	Z		
6.222 Facilities owned and operated by public entities other than the Town of Carrboro	C	C	C	C	C	C	C	C	C				C	C		C	C	C	C	C		
6.230 Golf driving ranges not accessory to golf course, par 3 golf courses, miniature golf course, skateboard parks, water slides, and similar uses.														ZS					C			
6.240 Horseback riding stables (not constructed pursuant to permit authorizing residential development)							S							S			Z	C	C			
6.250 Automobile and motorcycle racing tracks															S							
6.260 Drive-in Movie Theaters														C								
7.000 Institutional Residence or Care of Confinement Facilities																						
7.100 Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area									C							C						
7.200 Nursing care institutions, intermediate care institutions, handicapped, aged or infirm institutions, child care institutions	C	C					C		C							C			C			

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Last Amended: 6/22/10

DESCRIPTION	R-2	R-3	R-7.5	R-SIR, SIR2, 10	R-15	R-20	RR	B-1 (C)	B-1 (G)	B-2	B-3	B-3-T	B-4	M-1	M-2	CT	C	W-R	B-5	WM-3	O	O/A
7.300 Institutions (other than halfway houses) where mentally ill persons are confined									C							C						
7.400 Penal and Correctional Facilities																						
8.000 Restaurants (including food delivery services), Bars, Night Clubs																						
8.100 Restaurant with none of the features listed in use classification below as its primary activity								ZS	ZC(1)	C			Z						C			ZC
8.200 Outside Service or Consumption								ZS	ZC(1)	C			S						C			ZC
8.300 Drive-in (service to and consumption in vehicle on premises)													C									
8.400 Drive Through Windows (service directly to vehicles primarily for off-premises consumption)													C									
8.500 Carry Out Service (food picked up inside of off-premises consumption)								ZS	ZC(1)				Z						C			
8.600 Food Delivery								ZS	ZC(1)				Z						C			
8.700 Mobile prepared food vendors								Z	Z					Z								
9.000 Motor Vehicle-Related Sales and Service Operations																						
9.100 Motor vehicle sales or rental of sales and service									C					ZC	ZC							
9.200 Automobile service stations													S	C	Z							
9.300 Gas sales operations											S	S	S	C	Z							
9.400 Automobile repair shop or body shop								C				S	S	C	Z							
9.500 Car wash														C	Z							
10.000 Storage and Parking																						
10.100 Independent automobile parking lots or garages								ZC	Z				Z	Z	Z	C						
10.200 Storage of goods not related to sale or uses of those goods on the same lot where they are stored																						
10.210 All storage within completely enclosed structures														Z	Z							C
10.220 Storage inside or outside completely enclosed structures														C	Z							ZC
10.300 Parking of vehicles or storage of equipment outside enclosed structures where: (i) vehicles or equipment are owned and used by the person making use of the lot, and (ii) parking or storage is more than a minor and incidental part of the overall use made of the lot														S	S							
11.000 Scrap Materials Salvage Yards, Junkyards, Automobile Graveyards																S						
12.000 Services and Enterprises Related to Animals																						
12.100 Veterinarian							S		ZS				S	S	S							
12.200 Kennel							S							S	S							
13.000 Emergency Services																						
13.100 Police Stations	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
13.200 Fire Stations	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
13.300 Rescue Squad, Ambulance Service	S	S	S	S	S	S	Z		S	S	S	S	S	S	S	Z	S	C	C	C	C	S
13.400 Civil Defense Operation	S	S	S	S	S	S	Z		S	S	S	S	S	S	S	Z	S	C	C	C	C	S
14.000 Agricultural, Silvicultural, Mining, Quarrying Operations																						
14.100 Agricultural operations, farming																						
14.110 Excluding livestock		Z	Z	Z	Z	Z	Z									Z		Z	Z	Z		
14.120 Including livestock							Z											Z	Z	Z		
14.200 Silvicultural operations		Z	Z	Z	Z	Z	Z									Z						
14.300 Mining or quarrying operations, including on-site sales of products																S						
14.400 Reclamation landfill		Z	Z	Z	Z	Z	Z						Z	Z	Z							

## TABLE OF PERMISSIBLE USES

Last Amended: 6/22/10

DESCRIPTION	R-2	R-3	R-7.5	R-SIR, SIR2, 10	R-15	R-20	RR	B-1 (C)	B-1 (G)	B-2	B-3	B-3-T	B-4	M-1	M-2	CT	C	W-R	B-5	WM-3	O	O/A
<b>15.000 Miscellaneous Public and Semi-Public Facilities</b>																						
15.100 Post Office								C	C		C	C	C	C	C	C						C
15.200 Airport							C		S				S	S								
15.300 Sanitary landfill							C							C								
15.400 Military reserve, National Guard centers														Z								
15.500 Recycling materials collection operations																						
15.510 Using collection facilities other than motor vehicles									Z				Z	Z	Z							
15.520 Aluminum recycling using motor vehicles									S				S	S	S				C			
15.600 Public utility service complex																						
15.700 Cable Television Signal Distribution Center								S	S	S	S		S	S	S	S					S	S
<b>15.800 Town-owned and/or Operated Facilities and Services</b>																						
15.810 Town-owned and/or Operated Public Parking Lot								Z	Z	Z	Z	Z	Z	Z	Z	Z				Z		Z
15.820 All other town-owned and/or operated facilities and services	Z	Z	Z	Z	Z	Z	Z	Z	Z		Z	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z
<b>16.000 Dry Cleaner, Laundromat</b>																						
16.100 With drive-in windows											C	C	C	C								C
16.200 Without drive-in windows									Z		S	S	Z	S		Z		C				S
<b>17.000 Utility Facilities</b>																						
17.100 Neighborhood	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	C	C	C			S
17.200 Community or regional														S	S	S	C		C			S
17.300 Cable Television Satellite Station							S				S	S	S	S	S	S					S	S
17.400 Underground Utility Lines	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	C	C	Z	C	Z	Z
<b>18.000 Towers and Related Structures</b>																						
18.100 Towers and antennas fifty feet tall or less	Z	Z	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z	Z	Z	C	Z			Z
18.200 Towers and antennas attached thereto that exceed 50 feet in height, and that are not regarded as accessory to residential users under 15-150(c)(5)						C	C				C	C	C	C	C	C			C	C	C	C
18.300 Antennas exceeding 50 feet in height attached to structures other than towers, [other than accessory uses under 15-150(c)(5)]	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
18.400 Publicly-owned towers and antennas of all sizes that are used in the provision of public safety services									ZC													
<b>19.000 Open Air Markets and Horticultural Sales</b>																						
19.100 Open air markets (farm and craft markets, flea markets, produce markets)								ZC	ZS	ZS	S	S		S		S					S	S
19.200 Horticultural sales with outdoor display									ZS	ZS	S	S		S		S					S	S
19.300 Seasonal Christmas or pumpkin sales								Z	Z	Z	Z	Z	Z	Z	Z						Z	Z
<b>20.000 Funeral Homes</b>														Z	Z							
<b>21.000 Cemetery and Crematorium</b>																						
21.100 Town-owned cemetery	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z
21.200 All other cemeteries							S							Z	Z		C	C	C			
21.300 Crematorium														Z	Z							
<b>22.000 Day Care</b>																						
22.100 Child Day Care Home	ZZ	Z	Z	Z	Z	Z	Z	S	S	Z	S	S				Z		Z			S	S
22.200 Child Day Care Facility	S	S	S	S	S	S	S	Z	Z	Z	Z	Z	Z	Z	Z	Z	C	C			Z	Z
22.300 Senior Citizens Day Care, Class A	S	S	S	S	S	S	S			Z	Z	Z	Z	Z	Z	Z	C	C			Z	Z
22.400 Senior Citizens Day Care, Class B	S	S	S	S	S	S	S	Z	Z	S	Z	Z	S	Z		S					Z	Z

## TABLE OF PERMISSIBLE USES

Last Amended: 6/22/10

DESCRIPTION	R-2	R-3	R-7.5	R-SIR, SIR2, 10	R-15	R-20	RR	B-1 (C)	B-1 (G)	B-2	B-3	B-3-T	B-4	M-1	M-2	CT	C	W-R	B-5	WM-3	O	O/A
23.000 Temporary structure or parking lots used in connection with the construction of a permanent building or for some non-recurring purpose																						
23.100 Temporary structures located on same lot as activity generating need for structure	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	C	C	C	C	Z	Z
23.200 Temporary parking facilities located on or off-site of activity generating need for parking	Z																					
24.000 Bus Station								ZS					S	S		S						
25.000 Commercial Greenhouse Operations																						
25.100 No on-premises sales						S	S							Z								
25.200 On-premises sales permitted							S							Z								
26.000 Subdivisions																						
26.100 Major	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	SC	C	C	C	C	SC	SC
26.200 Minor	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	C	C	C	C	Z	Z
27.000 Combination Uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	*	*	*	*
	Permissible only in Planned Unit Development Districts (See Section 15-139) pursuant to a conditional use permit.																					
28.000 Planned Unit Developments																						
29.000 Special Events	C	C	C	C	C	C	C	ZC	ZC	ZC	C	C	C	C	C	C	C	C	C		C	C
	Permissible only in Planned Industrial Development Districts [See Subsection 15-137(e)] pursuant to a conditional use permit																					
30.000 Planned Industrial Development																						
31.000 Off-Premises Signs															Z							
	Permissible only in Village Mixed Use Districts (See Section 15-141.2 pursuant to a conditional use permit).																					
32.000 Village Mixed Use Development																						
	Permissible only in Office/Assembly Conditional Use Districts [see Subsection 15-136(11)] pursuant to a conditional use permit].																					
33.000 Office/Assembly Planned Development																						
34.000 Temporary Lodging																						
34.100 Hotels and Motels	C							C	C				C			C						C
34.200 Bed and Breakfast	S	S	S	S	S	S	S			S						S		C	S			

## Art. X PERMISSIBLE USES (con't)

**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)

*Art. X PERMISSIBLE USES (con't)*

- (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(1)" 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.

*Art. X PERMISSIBLE USES (con't)*

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)

**Section 15-148 Board of Adjustment Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit.**

(a) Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of Section 15-147 and the other provisions of this article) provides that a use is permissible with a zoning permit, (i) a conditional use permit shall nevertheless be required if the administrator finds that the proposed use is located within the University Lake Watershed (i.e., the C, B-5, and WM-3 districts) and would have a substantial impact on neighboring properties or the general public, and (ii) a conditional use permit shall nevertheless be required if the administrator finds that the proposed use is located in the B-1(c), B-1(g), B-2, or CT zoning districts, the use is shown as permissible in those districts with a "ZC" designation in the Table of Permissible Uses, and the proposed use would have a substantial impact on neighboring properties or the general public; (iii) otherwise, a special use permit shall nevertheless be required if the administrator finds that the proposed use would have a substantial impact on neighboring properties or the general public. (AMENDED 01/22/85; 12/15/87; 02/25/92)

(b) A special use permit shall be required for any use that is otherwise permissible with a zoning permit if the administrator concludes that, given the impact of the proposed use on neighboring properties, the vested right conferred upon the permit recipient pursuant to Section 15-128.2 should not be conferred without an opportunity for public input. A conditional use permit shall be required for any use that is otherwise permissible with a zoning permit if the administrator concludes that, given the impact of the proposed use on the general public, the vested right conferred upon the permit recipient pursuant to Section 15-128.2 should not be conferred without an opportunity for public input. However, if the zoning administrator makes this determination, the permit applicant may require that the application be returned to the zoning permit process by submitting to the administrator a written waiver of the vested right normally acquired under Section 15-128.2 upon the issuance of a zoning permit. (AMENDED 10/01/91; 02/25/92)

**Section 15-149 Permissible Uses and Specific Exclusions. (AMENDED 6/24/08)**

(a) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one zoning district in the town's planning jurisdiction. Therefore, because the list of permissible uses set forth in Section 15-146 (Table of Permissible Uses) cannot be all-inclusive,



## ATTACHMENT C

### LUO Excerpt:

#### **Section 15-148 Board of Adjustment Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit.**

(a) Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of Section 15-147 and the other provisions of this article) provides that a use is permissible with a zoning permit, (i) a conditional use permit shall nevertheless be required if the administrator finds that the proposed use is located within the University Lake Watershed (i.e., the C, B-5, and WM-3 districts) and would have a substantial impact on neighboring properties or the general public, and (ii) a conditional use permit shall nevertheless be required if the administrator finds that the proposed use is located in the B-1(c), B-1(g), B-2, or CT zoning districts, the use is shown as permissible in those districts with a "ZC" designation in the Table of Permissible Uses, and the proposed use would have a substantial impact on neighboring properties or the general public; (iii) otherwise, a special use permit shall nevertheless be required if the administrator finds that the proposed use would have a substantial impact on neighboring properties or the general public. (AMENDED 01/22/85; 12/15/87; 02/25/92)

(b) A special use permit shall be required for any use that is otherwise permissible with a zoning permit if the administrator concludes that, given the impact of the proposed use on neighboring properties, the vested right conferred upon the permit recipient pursuant to Section 15-128.2 should not be conferred without an opportunity for public input. A conditional use permit shall be required for any use that is otherwise permissible with a zoning permit if the administrator concludes that, given the impact of the proposed use on the general public, the vested right conferred upon the permit recipient pursuant to Section 15-128.2 should not be conferred without an opportunity for public input. However, if the zoning administrator makes this determination, the permit applicant may require that the application be returned to the zoning permit process by submitting to the administrator a written waiver of the vested right normally acquired under Section 15-128.2 upon the issuance of a zoning permit. (AMENDED 10/01/91; 02/25/92)