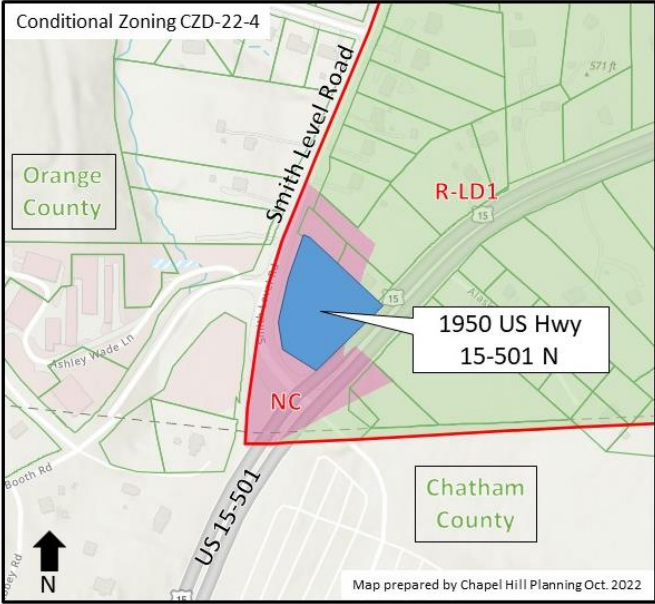




OPEN THE LEGISLATIVE HEARING: CONDITIONAL ZONING APPLICATION FOR STARPOINT REFUEL LOCATED AT 1950 U.S. 15-501 (PROJECT #CZD-22-4)

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Britany Waddell, Director
 Judy Johnson, Assistant Director
 Jacob Hunt, Planner II

PROPERTY ADDRESS	MEETING DATE	APPLICANT
1950 U.S. 15-501	May 10, 2023	McAdams on behalf of Refuel Operating Company, LLC
<p>STAFF RECOMMENDATION</p> <p>That the Council: 1) open the legislative hearing, 2) receive and provide comments on the Conditional Zoning application, and 3) continue the hearing to June 14, 2023.</p>		
<p>ZONING</p> <p><i>Existing:</i> Neighborhood Commercial (NC) and Residential - Low Density 1 (R-LD1)</p> <p><i>Proposed:</i> Neighborhood Commercial-Conditional Zoning District (NC-CZD)</p>	<p>PROJECT OVERVIEW</p> <p>This proposed redevelopment of an existing gas station on approximately 1.14 acres of land includes:</p> <ul style="list-style-type: none"> • 3,270 sq. ft. of commercial floor area • New covered pump station • Surface parking • Turn lane realignment on Smith Level Road <p>A Transportation Impact Analysis was not required for this application.</p>	
<p>PROCESS</p> <p>Conditional Zoning is a legislative process that allows Town Council to review the rezoning application for consistency with the Land Use Plan in the Comprehensive Plan and establish standards that address any impacts on surrounding properties.</p>	<p>PROJECT LOCATION</p> 	
<p>DECISION POINTS</p> <p><u>Modifications to Regulations:</u> The applicant is requesting modifications to:</p> <ul style="list-style-type: none"> • Street setback • Landscape buffers • Remove a requirement to provide sidewalks along street frontages <p><u>Other Considerations:</u></p> <ul style="list-style-type: none"> • Providing sidewalks will require the construction of pedestrian crossing facilities at the intersection of Smith Level Road and U.S. 15-501 	<p>ATTACHMENTS</p> <ol style="list-style-type: none"> 1. Technical Report & Project Fact Sheet 2. Draft Staff Presentation 3. Resolution A, Resolution of Reasonableness and Consistency 4. Ordinance A, Approving the Application 5. Resolution B, Denying the Application 6. Advisory Board Recommendations 7. Draft Applicant Presentation 8. Modifications to Regulations (Applicant Request) 9. Applicant Materials 	



TECHNICAL REPORT

PROPOSED ZONING

The application proposes applying a Neighborhood Commercial-Conditional Zoning District (NC-CZD) to the site to accommodate the proposed project.

The Land Use Management Ordinance (LUMO) states the intent of Neighborhood Commercial-Conditional Zoning District (NC-CZD) is *"to provide for the development of low-intensity commercial and service centers that are accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhoods, and are of such a nature as to minimize conflicts with surrounding residential uses."* (LUMO Section 3.3.3)

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and which allows site-specific standards to be formulated and applied as conditions through a legislative process.

Conditions are typically used to:

- Address conformance of the development with Town regulations and adopted plans.
- Modify use, intensity, and development standards to be more restrictive when addressing impacts reasonably expected to be generated by development.
- Modify intensity and development standards to be less restrictive when accommodating the applicant's proposed site plan (Modifications to Regulations).

SITE CONTEXT

Staff has identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Zoning Atlas Amendment:

- The property is currently occupied by an existing gas station and small retail spaces.
- The applicant is pursuing a Conditional Zoning for two reasons. The first is that the extent of the land disturbance on-site requires either Conditional Zoning or a Special Use Permit under LUMO 3.7. The second is to allow the applicant to request modifications to LUMO standards.
- The site fronts on US Highway 15-501 and Smith Level Road, both of which are North Carolina Department of Transportation (NCDOT) maintained arterial streets and major travel corridors in southern Chapel Hill.
- The site is adjacent to the following zoning districts and uses:
 - North and East: Single family homes in the Residential-Low Density 1 (R-LD1) zoning district.
 - West: Town of Carrboro and Orange County zoning jurisdictions
 - South: Chatham County zoning jurisdiction
- The site does not contain any notable hydrological features.
- The site is in the Watershed Protection District.

PROPOSED MODIFICATIONS TO REGULATIONS

1) Section 3.8.2: Dimensional standards: Setbacks. The applicant proposes reducing the minimum street setback along Smith Level Road from 24 ft. to 16 ft.

Staff Comment: Setbacks are a tool to separate a proposed development from adjacent major streets and different adjacent land uses. Staff believes that the Council could find a public purpose for the decrease in setbacks as they will allow for the building of the entirety of the proposed commercial space on a relatively small site. The proposed modification also allows a retaining wall inside of the Smith Level Road street setback to support the applicant’s grading plan.

Further justification is provided in the applicant’s statement on Modifications to Regulations.

2) Section 5.6.6: Landscaping, screening and buffering: Required Buffers
The table below shows the required and proposed buffers for this development.

Location	Required	Proposed
Eastern Buffer (single-family)	Type 'C' 20 ft.	Variable width, 12-20 ft. Type 'C'
Eastern Buffer (15-501)	Type 'D' 30 ft.	0 ft., with street trees planted per district-specific plan
Western Buffer (Smith Level Rd)	Type 'D' 30 ft.	Variable width, 0-30 ft., planted per district-specific plan

Staff Comment: Buffers are required to separate a proposed development from adjacent major streets and different adjacent land uses or zoning designations to minimize potential nuisances like noise, dust, odor, litter, and glare of lights. Buffers are also intended to reduce the visual impact of unsightly aspects of adjacent development, provide for the separation of spaces, and to establish a sense of privacy. Staff believes that the Council could find a public purpose for buffer standards reduction as current buffers fronting 15-501 and Smith Level Road do not meet LUMO standards. Modified buffers may improve adjacent site conditions. LUMO-compliant buffers would limit developable area but could also provide more protection from potential nuisances.

Further justification is provided in the applicant’s statement on Modifications to Regulations.

3) Section 5.8.1: Access and Circulation: External Circulation. The applicant requests to waive a requirement for sidewalks along US 15-501 and Smith Level Road.

Staff Comment: LUMO requires bicycle, pedestrian and transit improvements to be installed along all public streets within and on the external street frontage of the development, to the extent practicable, in accordance with provisions in the Chapel Hill Design Manual. On this site, those improvements include sidewalks on both street frontages based on the street classifications. Staff agrees with the applicant that sidewalks should not be required on US 15-501. This is due to the presence of a historic cemetery on the site that would be negatively impacted by the construction of a sidewalk, as well as the lack of connection opportunity to any existing infrastructure along US 15-501. Staff recommends that sidewalks be provided on Smith Level Road. Given possible pedestrian connectivity opportunities with surrounding properties, staff do not support a modification to LUMO standards for the Smith Level Road frontage.

Further justification is provided in the applicant’s statement on Modifications to Regulations.

OTHER CONSIDERATIONS

Sidewalks and Crossing of US 15-501. The Town’s Design Manual and the Mobility and Connectivity Plan support the provision of sidewalks on abutting public streets for new developments, subdivisions, and redevelopment. LUMO section 5.8.1(e) states: “Bicycle and pedestrian systems in the vicinity of the development site shall be extended to the site to the extent practicable. Access to the site shall be in compliance with and coordinate to existing and future town bicycle and pedestrian systems and the systems of adjacent developments. Bicycle, pedestrian and transit improvements shall be installed along all public streets within and on the external street frontage of the development, to the extent practicable, in accordance with provisions in the Chapel Hill Design Manual.” To meet this requirement, standard sidewalks will need to be provided along Smith Level Road that connect to existing pedestrian facilities at the intersection of Smith Level Road and US 15-501. NCDOT has stated that the following will be necessary improvements if a sidewalk is installed.

- Crosswalks on US 15-501 and the Walmart entrance road for connectivity
- Appropriate ramps meeting ADA and NCDOT standards to accommodate crosswalks and connectivity including installation of sidewalk on the northeast corner of the Walmart entrance road
- Pedestrian signals for the crosswalks meeting NCDOT design standards.

Staff is recommending that the applicant hold further conversations with NCDOT and seek their approval for the sidewalk as required by LUMO. This is recommended as a condition of approval.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

North Carolina General Statute 160D-605 requires the Town Council to consider a statement of Plan consistency when reviewing any Zoning Atlas Amendment. Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)¹, the standards of the [Land Use Management Ordinance](#)², and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)³ and provides the following evaluation of consistency:

	Description of Plan Element	Staff Evaluation
Land Use Category	<p>The Future Land Use Map (FLUM) designation of the site is Commercial/Office, reflecting the current use of the site for a service station, truck rental facility, and retail space.</p> <p>The site falls outside of FLUM Focus Areas.</p> <p>The purpose of Commercial/Office use areas is to provide for a wide range of businesses,</p>	<p>The proposed rezoning is consistent with the uses envisioned by the FLUM because the proposed zoning district allows commercial establishments.</p>

¹ <http://www.townofchapelhill.org/home/showdocument?id=15001>

² https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA

³ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

	<p>retail/restaurant establishments, institutions, services, medical/health services, auxiliary hospitals, and offices. They are generally located near concentrations of existing or planned residences with access to major transportation/multi-modal corridors. Where possible, sidewalks and other pedestrian spaces should be activated as places to gather or otherwise spend time, such as sidewalk cafes and plazas. Off-street parking should be behind buildings.</p>	<p>Zoning conditions can require the pedestrian infrastructure envisioned by the FLUM to connect surrounding neighborhoods with retail opportunities.</p>
<p>Mobility And Connectivity</p>	<p>The Mobility and Connectivity Plan does not propose any facilities or crossing opportunities in this area of US 15 501.</p>	<p>The applicant is requesting a modification to sidewalk requirements. If that is granted, they would need to construct a crossing.</p>
<p>Climate Action and Response</p>	<p>One of the top goals of the Climate Action and Response Plan is a reduction of Greenhouse Gas emissions by 50% by 2030 and to eventually become carbon neutral.</p> <p>The Plan also identifies transportation and land use actions that should be taken to reach these goals. Those include “create a town-wide electric vehicle (EV) charging station network” and “create walkable, bikeable, transit-served neighborhoods.”</p>	<p>The applicant is proposing a use that will not work towards the Town’s goal of a reduction of greenhouse gas emissions or other Plan goals. The proposed use encourages increased dependence on auto-oriented development and fossil fuels.</p> <p>By not providing sidewalks connections, the proposed development does not contribute to a walkable neighborhood in the area.</p>

<p>Chapel Hill 2020 Goals</p>	<p>Opportunities for this application to support goals of Chapel Hill 2020 include:</p> <ul style="list-style-type: none"> • Redevelopment of the site would allow for greater economic development on site (<i>Community Prosperity and Engagement.2</i>) • Reductions in impervious surface along with improved spill and cleanup requirements on the site could result in more positive environmental outcomes for this area of Town. (<i>Nurturing Our Community.2</i>) • A redeveloped service station would “recognize the importance of automobiles” in the overall transportation system. This is stated goal of Chapel Hill 2020. (<i>Getting Around.1</i>) • The proposed zoning would support suburban development in appropriate locations. (<i>Getting Around.4</i>) <p>Staff believes this application does not support the following goals of Chapel Hill 2020:</p> <ul style="list-style-type: none"> • Without providing connection for pedestrians, the development will not promote a safe, connected community (<i>Community Prosperity and Engagement.3</i>) • The development as proposed does not encourage the growth of alternative forms of transportation including bicycling and walking. (<i>Getting Around.1</i>) • The proposed use of a service station/convenience store does not work towards mitigating congestion or improving air quality. It will likely have some negative impacts on each by encouraging automobile dependence. (<i>Getting Around.6</i>)
--------------------------------------	--

REASONABLENESS OF THE ZONING ATLAS AMENDMENT

Reasonableness is determined by comparing the scale of permissible development under the proposed zoning district to the scale permitted under existing zoning, and by considering characteristics of the site and its surroundings. North Carolina General Statute 160D-605 requires the Town Council to consider a statement of reasonableness when reviewing any Zoning Atlas Amendment.

The factors listed below considers the applicant’s proposed zoning district and overall proposed use program. Specific characteristics of the development proposal, compliance with regulations, and appropriate conditions to address potential impacts of the development are evaluated elsewhere.

Supporting Factors

- The proposed zoning is the parallel Conditional Zoning District of the existing zoning district.
- The proposed Conditional Zoning District would reduce the amount of impervious surface on the site and be required to meet current LUMO stormwater standards.
- The proposed zoning district allows conditions to be incorporated that could limit intensity and establish standards to address any impacts on surrounding properties.

Other Considerations

- The proposed Conditional Zoning District does not include the provision of sidewalks to address pedestrian needs in the area.

FINDINGS OF FACT

Staff provides the following evaluation of the application under the three Findings of Fact identified in LUMO Section 4.4. LUMO states that the Zoning Atlas shall not be amended unless at least one of the Findings are made.

FINDING #1: The proposed zoning amendment is necessary to correct a manifest error.	
Arguments	To date, no arguments in support or in opposition have been submitted or identified by staff.
Staff Evaluation	There appears to be no manifest error in the Town's Zoning Atlas.

FINDING #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.	
Arguments	Staff notes that the existing building may have reached the end of its lifespan and redevelopment of the site may be needed to allow the current use to continue. To date, no arguments in opposition have been submitted or identified by staff.
Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions in Chapel Hill.

FINDING #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.	
Arguments	Staff notes that the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan through the following: <ul style="list-style-type: none"> • Facilitating development that implements the Land Use Category designated on the Future Land Use Map. • Supporting goals of Chapel Hill 2020 including <i>Community Prosperity and Engagement</i>, <i>Good Places-New Spaces</i>, and <i>Nurturing Our Community</i>. Staff notes that the Conditional Zoning application may not contribute to the purposes of the Comprehensive Plan through the following: <ul style="list-style-type: none"> • Does not support a connected community; <i>Community Prosperity and Engagement</i>. • Does not encourage the growth of alternative forms of transportation including bicycling and walking; <i>Getting Around</i>.
Staff Evaluation	The Council could or could not make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.







PROJECT FACT SHEET

Project Details

Site Description	
Project Name	Starpoint Refuel
Address	1950 US 15-501 S
Property Size (NLA)	49,876 (1.14 acres)
Gross Land Area (GLA)	54,864 sq. ft. (1.26 acres)
Orange County Parcel Identifier Numbers	9776-68-0129
Existing Zoning	Neighborhood Commercial (NC) and Residential-Low Density 1 (R-LD1)
Proposed Zoning	Neighborhood Commercial-Conditional Zoning District (NC-CZD)


Site Development Standards

Topic	Comment	Status			
Development Intensity					
Use (Sec. 3.7)	<i>Proposed Use:</i> Service station/convenience store				
Density (Sec. 3.8)	Not applicable for nonresidential development	NA			
Dimensional Standards (Sec. 3.8)	<i>Setbacks:</i> 24 ft. street, 8 ft. interior, 11 ft. solar – all minimums <i>Proposed:</i> 16 ft. street setback proposed, others will comply <i>Setback (primary) height:</i> 34 ft. maximum <i>Core (secondary) height:</i> 60 ft. maximum <i>Proposed:</i> Building heights will comply	M			
Floor area (Sec. 3.8)	<i>Maximum Floor Area Ratio (FAR):</i> .264 (14,484 Sq. Ft.) <i>Proposed:</i> .06 (3,270 Sq. Ft.)				
Landscape					
Buffers (Sec. 5.6.2)		<u>Adjacent Use/Zoning</u>	<u>Required</u>	<u>Proposed</u>	M
	North:	Single-family/ Vacant Land	20 ft. Type C/ 10 ft. Type B	12-20 ft. Type C / 10 ft. Type B	
	East:	US 15-501 (arterial)	30 ft. Type D	0 ft. with modified plantings	
	West:	Smith Level Road (arterial)	30 ft. Type D	0-30 ft. with modified plantings	
Tree Canopy (Sec. 5.7)	<i>Minimum required:</i> 14,962 sq. ft. (30% of NLA) <i>Proposed:</i> Final Plans application must comply			FP	
Parking Landscape Standards (Sec. 5.9.6)	Final Plans application must comply			FP	

Environment		
RCD Dimensional Standards (Sec. 3.6.3)	Final Plans application must comply	FP
Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required	FP
Steep Slopes Land Disturbance (Sec. 5.3.2)	<i>Maximum Disturbance allowed: 25% of areas with existing 4:1 slopes or greater</i> <i>Proposed: 0 sq. ft.</i>	FP
Stormwater Management (Sec. 5.4)	Meet or exceed LUMO standards	FP
Land Disturbance	<i>Proposed: 48,600 sq. ft.</i>	
Impervious Surface	<i>Existing: 38,747 sq. ft. (70.6%)</i> <i>Maximum allowed: 38,405 sq. ft. (70%)</i> <i>Proposed: 29,619 sq. ft. (54%)</i>	
Solid Waste & Recycling (Sec. 5.13)	Application must comply	FP
Jordan Riparian Buffer (Sec. 5.18)	Application must comply	FP
Access & Circulation		
Traffic Impact Analysis (Sec. 5.8)	TIA exempt	NA
Road Improvements (Sec. 5.8)	The developer proposes improvements to Smith Level Road to accommodate the proposed vehicular access points.	FP
Vehicular Access (Sec. 5.8)	Access points proposed on US 15-501 and the intersection of Smith Level Rd and Booth Rd. NCDOT is supportive of right in/right out access on US 15 501 and a full access at Smith Level Road.	FP
Bicycle & Pedestrian Improvements (Sec. 5.8)	The developer is requesting a modification to sidewalk requirements.	M
Transit Improvements (Sec. 5.8)	None	FP
Off-street Vehicular Parking (Sec. 5.9)	<i>Minimum parking required: 9 plus 1 accessible space</i> <i>Maximum parking allowed: 14 spaces</i> <i>Proposed: 9 plus 1 accessible space</i>	
Bicycle Parking (Sec. 5.9)	<i>Minimum required: 6 spaces</i> <i>Proposed: 8 spaces</i>	
Electric Vehicle Parking	None Provided	NA
Parking Design Standards (Sec. 5.9)	Application must comply	FP
Loading (Sec 5.9)	Application must comply	FP
Technical		
Fire	Built to Town Standards	FP

Recreation Area (Sec. 5.5)	Not applicable for nonresidential development	NA
Lighting Plan (Sec. 5.11)	Built to Town Standards; not to exceed 0.3 footcandles at property line	FP
Signage (Sec. 5.14)	Built to Town Standards	FP

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plans
NA	Not Applicable