

04-21-2021 Town Council Meeting Responses to Council Questions

ITEM #14: Open a Public Hearing for Land Use Management Ordinance (LUMO) Text Amendments - Proposed Changes to Articles 1, 3, 4, 5, 8 and Appendix A to Bring the LUMO into Compliance with North Carolina General Statute 160D; and Initial Review of Amendments to the Town Code - Proposed Changes to Chapters 5, 7, and 9 to Update References in these Chapters to Align with North Carolina General Statute 160D

Council Question:

Has the Town ever held administrative hearings? If so, how often have these been held?

Staff Response:

To our knowledge, the Town has not held formal administrative hearings. We routinely permit public comment on matters that meet the definition of an administrative decision, such as site plans and minor subdivisions. However, this practice of taking public comment on administrative decisions is our custom, not a requirement in the Land Use Management Ordinance (LUMO). The LUMO only contemplates a "public hearing" on an administrative decision in one instance and that is in procedures for the Blue Hill District. In Section 3.11.4.7 D. 3. c. the LUMO states, "In cases where the commission deems it necessary, it may hold a public hearing concerning the application." As a result of 160D, "public hearing" will be changed to "administrative hearing," This change reflects 160D's intent to distinguish between administrative, evidentiary, and legislative hearings.

Council Question:

Will the provision regarding the requirement of a first reading of a rezoning application needing a supermajority be automatically changed under Ch. 160D to a simple majority, or is this something the Council needs to adopt formally?

Staff Response:

Per David Owens of the UNC School of Government, once the Town adopts LUMO text amendments making 160D effective in the Town, the supermajority on first reading does not apply to any ordinance that requires a hearing under NCGS 160D-601, Procedure for adopting, amending, or repealing development regulations, which includes zoning text and map amendments. Therefore, Council does not need to adopt anything formally to repeal the need for a supermajority on first reading of an ordinance that requires a hearing under NCGS 160D-601.

04-21-2021 Town Council Meeting

Responses to Council Questions

Council Question:

Are these all of the remaining LUMO Text Amendments needed to ensure the Town is in compliance with Chp. 160D?

Staff Response:

It is staff's intent that these are all the remaining LUMO text amendments needed to ensure compliance with NCGS 160D. Between now and adoption in May, additional LUMO text amendments may be inserted into Ordinance A as staff completes the final review of Ordinance A to determine compliance with 160D. If additional amendments are inserted into Ordinance A before enactment, staff is confident these amendments will be only minor, technical changes to the LUMO.

Due to the complex structure of the LUMO, it is highly likely that staff will find other needed 160D related changes to the LUMO over the next year or so. If so, staff plans to compile these needed amendments and bring them forward to Council periodically.