



CONSIDER AN APPLICATION FOR CONDITIONAL ZONING AT PHI GAMMA DELTA AT 108 WEST CAMERON AVENUE FROM OFFICE/INSTITUTIONAL-1 (OI-1) TO OFFICE/INSTITUTIONAL-3-CONDITIONAL ZONING DISTRICT (OI-3-CZD)

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Colleen Willger, Planning Director
 Judy Johnson, Assistant Planning Director
 Anya Grahn, Senior Planner

PROPERTY ADDRESS	DATE	APPLICANT
108 W. Cameron Avenue	March 10, 2021	Kevin R. Hornik, The Brough Law Firm, on behalf of Phi Gamma Delta

TOWN MANAGER RECOMMENDATION

That the Council adopt Resolution A, adopt the Resolution of Consistency, and enact Ordinance A, abandoning the Special Use Permit and approving the Conditional Zoning Atlas Amendment.

UPDATE SINCE DECEMBER 9 PUBLIC HEARING

No public comment was received at the public hearing on December 9. The Council continued this item at the January 13, 2021 meeting at the request of the applicant to March 10, 2021.

PROCESS

The Council approved a Special Use Permit (SUP) at this site on July 7, 1997, and the applicant is requesting to replace that entitlement with this Conditional Zoning application.

An SUP holder may request that the Council approve the abandonment of the permit if the development authorized by the permit or modification no longer requires a SUP and all conditions of the SUP have been satisfied. The applicant satisfied the SUP conditions prior to making new changes to the site without required building and zoning permits.

If the proposed Conditional Zoning is approved, the SUP would no longer be required. Conditional Zoning is a legislative process that allows the Council to review the zoning application for consistency with the Land Use Plan in the Comprehensive Plan.

On November 18, 2020, the Council continued this item to the December 9, 2020 meeting. At the request of the applicant, the Council deferred discussion of this item from the scheduled January 13, 2021 meeting to March 10, 2021.

DECISION POINTS

The applicant requests the following:

- Abandon the Special Use Permit, dated July 7, 1997 and replace it with Conditional Zoning.
- Limit the use to only a fraternity or sorority dwelling.
- Modify regulations to reduce required landscape buffers.
- Modify regulations to remove requirement for on-site parking.
- Increase the floor area by 1,547 sf for a total of 13,450 sf.

PROJECT OVERVIEW

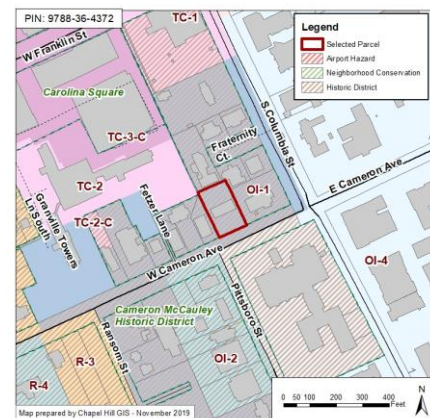
The applicant proposes abandoning the existing Special Use Permit (SUP) and replacing it with Conditional Zoning to allow the following:

- Enclose a rear porch increasing the floor area; and
- Remove all on-site parking.

The site is:

- Currently zoned Office/Institutional-1 (OI-1)
- Proposed zoning to Office/Institutional-3-Conditional Zoning District (OI-3-CZD)
- Lot size is 23,763 sq. ft. (0.55 acres)

PROJECT LOCATION



ATTACHMENTS

1. Technical Report
2. Project Fact Sheet
3. Draft Staff Presentation
4. Resolution A, Resolution of Consistency
5. Ordinance A, Abandoning the Special Use Permit and Approving the Application
6. Resolution B, Denying the Application
7. Applicant's Materials
8. Submitted Plans



TECHNICAL REPORT

KEY CONSIDERATIONS

1. Historic District Commission (HDC): At the [March 10, 2020 meeting](#)¹, the HDC recommended approval as proposed.
2. Environmental Stewardship Advisory Board (ESAB): At the [April 14, 2020 meeting](#)², ESAB recommended approval as proposed.
3. Transportation and Connectivity Advisory Board (TCAB): At the [April 16, 2020 meeting](#)³, TCAB recommended approval with the following conditions:
 - a. Applicant shall work with the Fire Department to ensure parking does not occur in the existing shared driveway and impede emergency vehicle access.
 - b. Boulder bollards at the end of the driveway does not impede emergency vehicle access to the backyard.

Staff Response: Staff has confirmed with the Fire Department that the proposed improvements would not impede access to the site.

4. Planning Commission: At the [April 21, 2020 meeting](#)⁴, the Planning Commission recommended approval with the following conditions:
 - a. The Town must determine whether fire sprinklers are required.

Staff Response: Staff has confirmed that the new enclosed porch does have fire sprinklers and a fire alarm. Additionally, staff has incorporated the following condition of approval:

33. Fire Sprinklers: The developer shall install sprinklers under the North Carolina Fire Protection Code (NC FPC) prior to issuance of a Certificate of Occupancy. Prior to issuance of a Zoning Compliance Permit, the plans shall show all proposed fire department connections to such systems. [TOWN CODE 7-56]

PROJECT OVERVIEW

January 17, 2019

The Town issues a Stop Work Order on the property for changes made to the site without the required permits. Changes include replacing screened openings on the porch

¹ <https://chapelhill.legistar.com/MeetingDetail.aspx?ID=710237&GUID=3BD2619B-5EA0-43B9-81FA-816B401C8203&Options=info|&Search=>

² <https://chapelhill.legistar.com/MeetingDetail.aspx?ID=710353&GUID=DE1C3022-C223-4250-BF2B-BE48ED63CB7E&Options=info|&Search=>

³ <https://chapelhill.legistar.com/MeetingDetail.aspx?ID=774019&GUID=DC639C8B-7BB7-4CF8-9FF6-43423C13B574&Options=info|&Search=>

⁴ <https://chapelhill.legistar.com/MeetingDetail.aspx?ID=710322&GUID=A0072D56-8445-4552-BD01-43E57F821856&Options=info|&Search=>

with windows creating floor area, installing new patio/hardscape, and removing on-site parking.

February 15, 2019	The Town issues a Notice of Violation to Phi Gamma Delta for violating the terms and conditions associated with maximum floor area and minimum parking requirements, as outlined in the July 7, 1997 Special Use Permit (SUP).
September 10, 2019	The Historic District Commission (HDC) approves an After-the-Fact Certificate of Appropriateness (ATF COA) for the replacement of screened openings with glass windows on the porch, expanding the floor area of the building; installation of a staircase from the rear deck to ground level as an emergency exit; installation of a fieldstone rear patio; and removal of on-site parking area and replacing with a lawn.
September 10, 2019	Concept Plan for changes already made to the Phi Gamma Delta presented to the HDC. The applicant presented the 1,044 square foot enclosure of a rear porch that increased the floor area as well as the previously removed on-site parking.
November 14, 2019	Applicant submitted a conditional zoning permit application to replace the 1997 SUP and seek approval for the changes made to the site without the required permits.
January 8, 2020	Concept Plan for Phi Gamma Delta presented to Council.
March- April 2020	Advisory Board review of the conditional zoning application.

The applicant proposes applying the Office/Institutional-3-Conditional Zoning District (OI-3-CZD) to accommodate changes made to the site without the required permits. The total floor area of the building is 13,450 square feet, exceeding the allowable floor area in the current Office/Institutional-1 (OI-1) zoning district. More details about the proposed development can be found in the Application Materials.

Information about the site and the proposed zoning district can be found below, as well as the list of proposed Modifications to Regulations, the analysis of the project's consistency with the Comprehensive Plan, and relevant Findings of Fact.

Recommendations by the Historic District Commission (HDC), Housing Advisory Board (HAB), Environmental Stewardship Advisory Board (ESAB), Transportation and Connectivity Advisory Board (TCAB) and Planning Commission are included as attachments.

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 subject site is located along West Cameron Avenue, within the Town of Chapel Hill town limits. The site has visibility to a high traffic volume; is along the route for over one dozen bus routes that travel through/near campus, including the '420', 'RU', 'A', 'CW' and 'CM' routes; and is located directly north of the Carolina Inn.

- Properties immediately to the east, west, and north the site are zoned Office/Institutional-1 (OI-1) and are developed with fraternity houses.
- Property directly to the northwest of the site is zoned Town Center-2 (TC-2).
- Phi Gamma Delta sits west of the intersection of South Columbia Street and Cameron Avenue. Directly across the street, the Carolina Inn is zoned Office/Institutional-4 (OI-4). To the west of the Carolina Inn and southwest of Phi Gamma Delta, the properties containing fraternity houses are zoned Office/Institutional-2 (OI-2).
- There are various multi-family, fraternity, and institutional buildings near the intersection of South Columbia Street and Cameron Avenue.
- There are no streams, stream buffers, floodplains, or wetlands impacting the site.

PROPOSED ZONING

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and allows site-specific standards to be formulated and applied as conditions through a legislative process. A -CZ suffix would be added to the zoning district designation to incorporate the approved conditions. The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with Town regulations and adopted plans. A -CZD suffix would be added to the zoning district designation to incorporate the approved conditions. The applicant proposes a Conditional Zoning district for the site, as shown on the site plan: Office/Institutional-3-Conditional Zoning District (OI-3- CZD).

The Office/Institutional-3 (OI-3) Zoning District is characterized by the following standards:

- **Intent:** Section 3.3.5 of the Land Use Management Ordinance states that the Office/Institutional-3 (OI-3) district "is intended to provide for major educational, research, public service, and office uses, and their necessary support functions, while minimizing conflicts with adjacent land uses."
- **Permitted Uses:** As established in LUMO Table 3.7-1, permitted uses include (but are not limited to) offices and research activities; limited types of businesses; single-family and multifamily residential; fraternity dwellings, and public/institutional facilities.
 - The Conditional Zoning application proposes limiting uses to fraternity or sorority dwelling.
 - The existing Office/Institutional-1 (O-1) zoning limits fraternity dwellings as a special use.
- **Dimensional Standards:** As established in LUMO Table 3.8-1, standards for Office/Institutional-3 include:

	OI-1	OI-3	Proposed
Setbacks:			
Street	24 ft.	0 ft.	24 ft.
Interior	8 ft.	0 ft.	8 ft.
Solar	11 ft	0 ft.	11 ft.
Building Height	29 ft. primary 60 core	N/A	48 ft.

	OI-1	OI-3	Proposed
Floor Area	0.264 (6,266 SF)	0.566 (13,464 SF)	0.566 (13,450 SF)

The proposed zoning would moderately increase the development potential for the site in terms of building scale.

- **Design and Development Standards:** Other standards (including landscape buffers, parking ratios, etc.) are established in LUMO Article 5 and are applicable. The LUMO also has special regulations for fraternity or sorority houses. Section 6.3 requires a minimum of 250 square feet of floor area for each resident.

The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards in order to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with town regulations and adopted plans.

PROPOSED MODIFICATIONS TO REGULATIONS:

- 1) Section 3.7.3 Use Groups Modification:** The applicant proposes to limit the allowed uses on the site to a fraternity or sorority dwelling.

Staff Comment: Staff believes that Council could find a public purpose for this as the use memorializes the existing fraternity dwelling and is consistent with the neighboring properties.

- 2) Section 4.5.5 (d) Abandonment of Special Use Permit:** The applicant proposes to abandon the 1997 SUP for the fraternity house and replace it with conditional zoning in order to maintain the changes made without the required permits.

Staff Comment: An SUP holder may request that the Council approve the abandonment of the permit if the development authorized by the permit or modification no longer requires a SUP and all conditions of the SUP have been satisfied. Staff finds that the applicant had satisfied the SUP conditions prior to making changes to the site without the required permits. If the proposed Conditional Zoning is approved, the SUP would no longer be required.

- 3) Section 5.6.6 Schedule of required buffers:**

Location	Required Buffer	Proposed Buffer
West – shared driveway	10-foot Type 'B'	Modified buffer*
North	10-foot Type 'B'	Alternative buffer*
East	10-foot Type 'B'	Alternative buffer*
South – W. Cameron Avenue	20-foot Type 'C'	Modified buffer*

*No change proposed

Staff Comment: Since the applicant is not proposing changes to the existing bufferyards, staff believes that the Council could find a public purpose for the reduced buffer width and plantings. A low stone wall (approximately eighteen inches in height) wraps the front yard along the driveway and four-foot deep planting bed behind the wall along the Cameron Avenue frontage provides a modified bufferyard. The house is set back almost 75 feet from the front property line. There is an alternate buffer along the north (rear) of the lot provided by a six foot tall (6') stone wall that extends across the back of the

property where the topography drops down and abuts the Sigma Nu fraternity to the north. An alternate buffer is also provided along the east (side) property line where hedges, including mature holly plants, divide the Phi Gamma Delta property from Delta Kappa Epsilon.

A fire in May 1996 destroyed much of the original building that had housed the Phi Gamma Delta fraternity. On July 7, 1997, the Town Council approved a Special Use Permit (SUP) for the reconstructed fraternity house and shed measuring 10,870 square feet in floor area. The SUP required eight to twelve parking spaces behind the house. At that time, a modification to the required 10-foot wide internal bufferyard was granted along the west side of the property, as there was an existing shared driveway along the west property line.





Council Findings and Public Purpose: The Council has the ability to modify the regulations according to Section 4.5.6 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer’s alternative is to revise the proposal to comply with the regulations.

For additional information on the proposed modifications, please refer to the Applicant’s Materials.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)⁵, the standards of the [Land Use Management Ordinance](#)⁶, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)⁷ and offers the following evaluation:

Comprehensive Plan Themes: The following are themes from the 2020 Comprehensive Plan, adopted June 25, 2012:

<input type="checkbox"/>		Create a Place for Everyone	<input type="checkbox"/>		Develop Good Places, New Spaces
<input type="checkbox"/>		Support Community Prosperity	<input type="checkbox"/>		Nurture Our Community
<input type="checkbox"/>		Facilitate Getting Around	<input checked="" type="checkbox"/>		Grow Town and Gown Collaboration

Staff believes the Phi Gamma Delta proposal complies with the above theme of the 2020 Comprehensive Plan.

⁵ <http://www.townofchapelhill.org/home/showdocument?id=15001>

⁶ https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUUMA

⁷ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

Land Use Plan: The [2020 Land Use Plan](#)⁸, a component of the 2020 Comprehensive Plan, designates this site for Town/Village Center. The 2020 Land Use Plan also designates this site as part of the [Downtown Chapel Hill Future Focus Discussion Area](#).⁹

Staff Evaluation: North Carolina General Statute Section 160A-383 requires the Council to approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other applicable officially adopted plan when adopting or rejecting any zoning amendment.

Staff provides the following evaluation of this application's consistency with the 2020 Comprehensive Plan and other adopted plans:

- The intent of the Office/Institutional-3 (OI-3) zoning district is to encourage uses supporting the university, such as educational, research, public service, and office uses. It also speaks to minimizing conflicts with adjacent land uses, which is consistent with the 2020 Land Use Plan. The site is in the Downtown Study Area, which calls for multifamily residences along Cameron Avenue.
- The site is located in the Downtown/Area 1 Future Focus Discussion Area. Chapel Hill 2020 characterizes Downtown as an area with opportunities "to preserve the historic/small-town character" of the adjacent residential areas including the Historic District. The plan also identifies traffic congestion, pedestrian and bicycle access, safety, and parking as key issues.
- The applicant states that the increased floor area provides additional space for student residents in the Phi Gamma Delta fraternity house. Further, the replacement of the parking area with green space improves a congested parking area and promotes safety on site.
- The Mobility and Connectivity Plan calls for Cross Cities Connector links along Cameron Avenue. One of the suggested improvements is a two-way cycle track from Merritt Mill Road to Pittsboro Road, directly southwest of Phi Gamma Delta.
- Finding #3 in the next section notes additional purposes of the 2020 Comprehensive Plan which may be achieved through this application.

FINDINGS OF FACT

To establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town, it is intended that the Land Use Management Ordinance (as stated in Section 4.4) shall not be amended except:

- A. To correct a manifest error in the chapter; or
- B. Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- C. To achieve the purposes of the Comprehensive Plan.

The Staff evaluation of this application is based on the three findings. Further information may be presented for the Council's consideration during the public hearing process. All information submitted at the public hearing will be included in the record of the hearing.

⁸ <http://www.townofchapelhill.org/home/showdocument?id=1215>

⁹ <https://www.townofchapelhill.org/town-hall/departments-services/chapel-hill-2020/future-focus-areas>

1.) Finding #1: The proposed zoning amendment is necessary to correct a manifest error.

Arguments in Support: To date, no arguments in support have been submitted or identified by staff.

Arguments in Opposition: To date, no arguments in opposition have been submitted or identified by staff.

Staff Response: We believe, based on the information entered into the record to date, that there is no manifest error in the Town's Zoning Atlas Amendment related to the project site.

2.) Finding #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.

Arguments in Support: To date, no arguments in support have been submitted or identified by staff.

Arguments in Opposition: To date, no arguments in opposition have been submitted or identified by staff.

Staff Response: We believe, based on the information entered into the record to date, that there has been no change or changing conditions in a particular area or in the jurisdiction generally.

3.) Finding #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.

Arguments in Support: The applicant's Statement of Consistency states that the proposed rezoning would contribute to the following elements of the Comprehensive Plan:

- Contribute to providing housing for students that is safe, sound, affordable, and accessible and meets a demonstrated need conducive to educational and maturational needs of students (*Goal Town and Gown Collaboration.4*)
- Contribute to housing for students and encourages them to reside in the community (*Goal Town and Gown Collaboration.4*)

Arguments in Opposition: To date, no arguments in opposition have been submitted or identified by staff.

Staff Response: We believe, based on the information entered into the record to date, that the Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.




















PROJECT FACT SHEET

Overview


Site Description	
Project Name	Phi Gamma Delta
Address	108 West Cameron Avenue
Property Description	Existing Fraternity
Property Size	23,763 SF (0.55 acres)
Existing	Fraternity Dwelling
Orange County Parcel Identifier Numbers	9788-36-4372
Existing Zoning	Office/Institutional-1 (OI-1)
Proposed Zoning	Office/Institutional-3-Conditional Zoning (OI-3-CZ)

Topic	Comment	Status
Use/Density (Sec 3.7)	Fraternity	
Dimensional Standards (Sec. 3.8)	no required street, interior, or solar setbacks in the OI-3 Zoning District	
Floor area (Sec. 3.8)	Maximum: 13,464 sq. ft. Proposed: 13,464 sq. ft.	
Modifications to Regulations (Sec. 4.5.6)	<ul style="list-style-type: none"> • Limit use to Fraternity/Sorority House • Eliminate required parking • Eliminate western buffer 	M
Adequate Public Schools (Sec. 5.16)	Not applicable	
Inclusionary Zoning (Sec. 3.10)	Not applicable	
Landscape		
Buffer – North (Sec. 5.6.2)	10' Internal Type "B" buffer	
Buffer – East (Sec. 5.6.2)	10' Internal Type "B" buffer	
Buffer – South (Sec. 5.6.2)	15' Modified External Type "B" buffer	M
Buffer - West (Sec. 5.6.2)	Reduced Modified 0' Internal Type "B"	M
Tree Canopy (Sec. 5.7)	Tree canopy coverage standards are required for applications proposing tree removal that require council approval. No tree removal is proposed at this time.	
Landscape Standards (Sec. 5.9.6)	Not applicable	

Environment		
Resource Conservation District (Sec. 3.6)	Not applicable	
Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required, if greater than 20,000 square feet of land disturbance.	
Steep Slopes (Sec. 5.3.2)	Not applicable	
Stormwater Management (Sec. 5.4)	No stormwater measures are required at this time.	
Land Disturbance	4,912 sq. ft.	
Impervious Surface (Sec. 3.8)	16,634 sq. ft. (70% of gross land area)	
Solid Waste & Recycling	Private trash pickup; County recyclable pickup	
Jordan Riparian Buffer (Sec. 5.18)	Not applicable	
Access and Circulation		
Road Improvements (Sec. 5.8)	Not applicable	
Vehicular Access (Sec. 5.8)	There is an existing concrete driveway along the west side of the site that will remain.	
Bicycle Improvements (Sec. 5.8)	16 existing spaces	
Pedestrian Improvements (Sec. 5.8)	Existing sidewalk along frontage	
Traffic Impact Analysis (Sec. 5.9)	Traffic Impact Analysis not required.	
Vehicular Parking (Sec. 5.9)	None proposed on-site. Minimum vehicular parking requirements do not apply for uses within the OI-3 zoning district. Bollards have been added to the end of the driveway to keep the residents from parking on the lawn in the backyard.	
Transit (Sec. 5.8)	Site is served by over one-dozen bus routes, including the '420', 'RU', 'A', 'CW' and 'CM' routes	
Electric Vehicle Parking	None proposed	
Parking Lot Standards (Sec. 5.9)	No parking on site	

Technical		
Fire	No fire flow studies or reports required at this time.	
Site Improvements	Removal of parking to expand lawn area.	
Recreation Area (Sec. 5.5)	Not applicable	
Lighting Plan (Sec. 5.11)	Not applicable	
Homeowners Association (Sec. 4.6)	Not applicable	

Project Summary Legend

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