



**OPEN THE LEGISLATIVE HEARING: LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT - SECTION 8.5 REVISING RULES OF THE COMMUNITY DESIGN COMMISSION**

**STAFF REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
 Colleen Willger, Director  
 Corey Liles, Principal Planner  
 Adam Nicholson, Senior Planner

<p><b>AMENDMENT REQUEST</b></p> <p>Consider reducing the number of member seats on the Community Design Commission, given recent challenges with recruitment and retention. Consider associated reductions to the thresholds for quorum and voting, to maintain simple majorities.</p>	<p><b>DATE</b></p> <p>September 1, 2021</p>
<p><b>STAFF RECOMMENDATION</b></p> <p>That the Council open the legislative hearing on the Land Use Management Ordinance (LUMO) text amendment, receive public comment, and continue the hearing to October 13, 2021.</p>	
<p><b>ADDITIONAL INFO</b></p> <ul style="list-style-type: none"> <li>The proposal is in response to the Community Design Commission (CDC) petitioning Council on February 23, 2021.</li> <li>The proposal would amend Section 8.5 of LUMO, as well as the Council’s Advisory Board Membership Policy.</li> <li>The CDC currently has 3 vacant seats, and has had at least 1 vacant seat out of 9 total seats since July 2019.</li> <li>With 6 currently active CDC members, a meeting must be rescheduled or cancelled if there is more than one absence. No decision can be made on an official action if there is more than one ‘Nay’ vote.</li> </ul>	<p><b>PROCESS</b></p> <ol style="list-style-type: none"> <li>Receive CDC Petition</li> <li>Initiate Text Amendment Process</li> <li>Call the Legislative Hearing</li> <li>Community Design Commission Review</li> <li><b>Legislative Hearing</b></li> <li>Planning Commission Review</li> <li>Consider Action on Text Amendment</li> </ol>
<p><b>DECISION POINTS</b></p> <p>Amendments to the rules of the Community Design Commission could include any or all of the following changes:</p> <ul style="list-style-type: none"> <li>Move the rules for membership, quorum, and voting from LUMO to the Council’s Advisory Board Membership Policy, and update LUMO to reference that Policy;</li> <li>Reduce the number of Commission member seats from 9 to 7;</li> <li>Reduce the number of members needed for quorum from 5 to 4;</li> <li>Reduce the number of concurring votes needed for formal action from 5 to 4.</li> </ul> <p>To enact a Land Use Management Ordinance Text Amendment, Council must consider whether it achieves one or more of the following three purposes:</p> <ol style="list-style-type: none"> <li>To correct a manifest error in the chapter</li> <li>Because of changed or changing conditions in a particular area or in the jurisdiction generally</li> <li>To achieve the purposes of the Comprehensive Plan.</li> </ol>	
<p><b>ATTACHMENTS</b></p>	<ol style="list-style-type: none"> <li>Technical Report</li> <li>Draft Staff Presentation</li> <li>Resolution A, Consistency with the Comprehensive Plan</li> <li>Ordinance A, Enacting the Land Use Management Ordinance Text Amendment</li> <li>Resolution B, Adopting the Advisory Board Policy</li> <li>Resolution C, Denying the Proposal</li> <li>Community Design Commission Recommendation</li> </ol>



## **TECHNICAL REPORT RULES OF THE COMMUNITY DESIGN COMMISSION, SECTION 8.5**

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This report provides various considerations for the proposed LUMO text amendment to revise rules of the Community Design Commission

### **BACKGROUND AND NEXT STEPS**

February 23, 2021	The Community Design Commission (CDC) petitions Council to consider a reduction of Commission member seats
February 25, 2021	Council Committee on Boards and Commissions recommends full Council consideration of the petition
March 24, 2021	Council formally initiates a text amendment process to consider revisions to membership, quorum, and voting rules of the CDC
June 23, 2021	Council calls a legislative hearing to consider the LUMO text amendment
August 24, 2021	Community Design Commission review and recommendation on proposed LUMO text amendment
September 1, 2021	Council legislative hearing to consider LUMO text amendment
September 7, 2021	Planning Commission review and recommendation
October 13, 2021	Council to consider action on LUMO text amendment

### **CURRENT CDC MEMBERSHIP RULES**

- 9 Member Seats on the Community Design Commission
- 5 Members in attendance needed for Quorum
- 5 Concurring Votes needed to take any formal action. This includes approval or denial of a Blue Hill Certificate of Appropriateness. This does not include building elevation reviews and recommendations to Council, which may be approved with a simple majority of members present.

The CDC has had 9 member seats since 2014, when the number of seats was reduced from 10 to 9. Quorum has been set to equal a majority of seats.

Staff compared the sizes of other appearance commissions in the region and noted that Carrboro, Graham, and Chatham County all currently have 9-member commissions. A greater number of members seats was typical among larger communities such as Raleigh and Durham.

Council applied the 5-member concurring vote threshold through a LUMO text amendment approved on June 27, 2018. The text amendment required that the Planning Commission, Historic District Commission, and Community Design Commission all take formal actions through a majority vote of total member seats, rather than a majority vote of members present. The purpose of the change was to prevent instances of significant decisions being made by only a few people.

## CHALLENGES FOR THE COMMISSION AND STAFF

There are currently 6 active CDC members and 3 vacant seats. There has been at least one vacant seat, out of the 9 total, since July 2019. Challenges created by this situation include:

- **Time and effort spent on recruiting and interviewing candidates.**  
The Commission has held interviews outside of the typical spring cycle to try and fill vacant seats, but this does not always result in new appointments.
- **Meetings must be rescheduled or cancelled if there is more than one absence.**  
Staff notes that in the past year, absences have resulted in one meeting (December 2020) needing to be rescheduled. In recent years there have been high levels of attendance, with most Commission members only being absent once per year (on average) or less. However, there is always the risk that attendance patterns could change over time.
- **No decision can be made when there is more than one 'Nay' vote.**  
This applies to formal actions only. The result of two 'Nay' votes is not denial of an application, but rather lack of decision and lack of clear path forward. While no formal application review in recent years has resulted in lack of decision, the risk remains.

## POSSIBLE CHANGES

Council may consider each reduction separately and adopt some, all, or none. Quorum and Voting thresholds are currently set at a simple majority of total seats, but that is not a requirement.

Existing Rule	Possible Change	Staff Evaluation
<b>Membership</b>		
<b>9</b> seats	<b>7</b> seats	<ul style="list-style-type: none"> <li>• Less time and effort addressing vacancies</li> <li>• More efficient discussion at meetings</li> <li>• May slightly reduce the range of member perspectives</li> <li>• A subsequent amendment will address extraterritorial jurisdiction (ETJ) representation required by Chapter 160D</li> </ul>
<b>Quorum</b>		
<b>5</b> attending	<b>4</b> attending	<ul style="list-style-type: none"> <li>• Reduces risk of meetings being rescheduled/cancelled</li> <li>• Maintains simple majority threshold, IF membership is also reduced</li> <li>• Constitutes a majority of current active members</li> </ul>
<b>Voting</b>		
<b>5</b> concurring votes	<b>4</b> concurring votes	<ul style="list-style-type: none"> <li>• Reduces risk of applications getting 'stuck' without formal approval OR denial</li> <li>• Maintains simple majority threshold as established in 2018, IF membership is also reduced</li> <li>• Constitutes a majority of current active members</li> </ul>

## **ADVISORY BOARD MEMBERSHIP POLICY vs. LAND USE MANAGEMENT ORDINANCE**

Rules for the Town's Development Review Commissions are found in two places – the LUMO and the Council's standing Advisory Board Membership Policy. The information is sometimes duplicative. Referencing the Membership Policy in LUMO is a common practice.

Staff recommends that rules for membership, quorum, and voting be contained in the Advisory Board Membership Policy, with appropriate references in LUMO to the Policy. The rules contained in LUMO would then primarily focus on powers and duties of the Commission. Advantages of this approach include:

- Removing the risk of inconsistencies, by not duplicating information.
- A simplified procedure to make any future updates. If Council wished to pilot some changes in response to the CDC's petition, then a later update following the pilot could be made without requiring a Text Amendment process.