



**CLOSE THE LEGISLATIVE HEARING AND CONSIDER A LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT – SECTIONS 4.4 ZONING AMENDMENTS, 4.5 SPECIAL USE PERMITS, 4.7 SITE PLAN REVIEW, AND 4.8 MASTER LAND USE PLAN RELATED TO TIME EXTENSION PERIODS GRANTED BY THE TOWN MANAGER**

**STAFF REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
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<p><b>AMENDMENT REQUEST</b></p> <p>The purpose of this request is to remove the limitation of the number of time extensions that the Town Manager may grant. This amendment would apply to Conditional Zonings, Special Use Permits, Site Plans, and Master Land Use Plan project approvals. As development projects often take considerable time to secure financing and to prepare final construction plans, allowing the Town Manager to provide additional time extensions may reduce the number of items for Council review.</p>	<p><b>DATE</b></p> <p>October 27, 2021</p>
<p><b>TOWN MANAGER’S RECOMMENDATION</b></p> <p>That the Council close the legislative hearing and enact the Ordinance to extend the Town Manager’s time extensions.</p>	
<p><b>UPDATES SINCE THE PUBLIC HEARING</b></p> <p>Staff has provided some clarifying language to the amendment. Staff also added language to include one application currently pending before the Town at the time of enactment.</p>	
<p><b>PROCESS</b></p> <p>The item before the Council is for approval of a Land Use Management Ordinance Text Amendment. The Council must consider whether one or more of the <b>three findings</b> for enactment of the Land Use Management Ordinance Text Amendment applies:</p> <ol style="list-style-type: none"> <li>To correct a manifest error in the chapter; or</li> <li>Because of changed or changing conditions in a particular area or in the jurisdiction generally; or</li> <li>To achieve the purposes of the Comprehensive Plan.</li> </ol>	
<p><b>BACKGROUND</b></p> <p>Current language allows the Town Manager to grant a single twelve-month extension to construction starting time and construction completion time.</p> <ul style="list-style-type: none"> <li>Development projects often take considerable time to secure final approvals, funding, and construction contracts prior to beginning work.</li> <li>Large development projects often take significant time to complete.</li> <li>Expanding the Town Manager’s authority to beyond a twelve-month period of time may reduce the number of items for Council review.</li> <li>If the Town Manager determines there are paramount considerations of public health, general welfare, and public safety, then the project shall require Town Council re-approval.</li> </ul>	
<p><b>ATTACHMENTS</b></p>	<ol style="list-style-type: none"> <li>Technical Report</li> <li>Draft Staff Presentation</li> <li>Resolution of Consistency (For proposed Land Use Management Ordinance amendment)</li> <li>Ordinance A (Enactment of Land Use Management Ordinance Text Amendment Proposal)</li> <li>Resolution B (Deny Land Use Management Ordinance Text Amendment Proposal)</li> <li>Planning Commission Recommendation</li> </ol>



## **TECHNICAL REPORT: TIME EXTENSION PERIODS GRANTED BY TOWN MANAGER**

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The following is a summary of the proposed LUMO text amendment that would allow the Town Manager to grant subsequent twelve month extension periods for Conditional Zonings, Special Use Permits, Site Plan Reviews, and Master Land Use Plans:

### **1. Amend Section 4.4.5 (f) Procedures – All Other Conditional Zoning District Rezoning**

- (1) Starting time limit. If a final plans zoning compliance permit application is not filed with the town manager within twenty-four (24) months of the date of approval, or within such further time stipulated in the approval, the approval shall expire and the conditional zoning district shall be void and the property shall revert to its previous zoning classification. The town manager may grant ~~a single an~~ extension of the starting time limit for up to twelve (12) months. At any time within the initial period of extension, the town manager may grant one additional extension of the starting time limit for up to twelve (12) months. With respect to either request for extension, for paramount considerations of health, the general welfare, or public safety, the town manager may instead require council re-approval in accordance with the procedures set forth in subsections 4.4.1 and 4.4.5. All further requests for extension of time shall be reviewed in accordance with the procedures set forth in subsections 4.4.1 and 4.4.5 unless he/she determines that paramount considerations of health, the general welfare, or public safety require town council re-approval. In such instances or in the instance the town manager has already granted a single extension of the time limit, the town manager shall require the application to be reviewed in accordance with the procedures set forth in subsections 4.4.1 and 4.4.5.
- (2) Completion time limit, if applicable. If all construction and actions authorized or required by the approval of the conditional zoning district and accompanying district-specific plans are not completed by the completion date stated in the approval or modification, the zoning compliance permit holder may request an extension of the completion time limit from the town manager. The town manager may grant ~~a single an~~ extension of the time limit for up to twelve (12) months if the town manager he/she determines that:
- A. The zoning compliance permit holder submitted the request within sixty (60) days after of the ~~specified~~ completion date specified in the approval or modification;
  - B. The zoning compliance permit holder has proceeded with due diligence and good faith; and
  - C. Conditions have not changed so substantially as to warrant town council reconsideration of the approved development.

Under the standards required by (f)(2)(A) through (f)(2)(C), above, the town manager may approve one additional extension of the completion time limit for up to twelve (12) months. If all construction and actions authorized or required are still not completed by the final extended completion date granted by the town manager, the permit holder may, within sixty (60) days after the revised completion date, request additional extensions of the completion time limit from the town council. The town council may grant extensions of the time limit if it makes the determinations required by (f)(2)(A) through (f)(2)(C), above.

## **2. Amend Section 4.5.5 (b) and (c) Expiration and Revocation of Special Use Permit Approvals**

*(b) Starting time limit.* If the use, construction, or activity authorized by town council approval of an application for a special use permit or modification of special use permit is not started within twenty-four (24) months of the date of approval or within such further time stipulated in the approval, the approval shall expire and any town permit issued pursuant to the approval shall be void. The town manager shall determine whether the use, construction, or activity has started. The town manager may grant ~~a single~~ an extension of the starting time limit for up to twelve (12) months~~7~~. At any time within the initial period of extension, the town manager may approve one additional extension of the starting time limit for up to twelve (12) months. With respect to either request for extension, for paramount considerations of health, the general welfare, or public safety, the town manager may instead unless he/she determines that paramount considerations of health, the general welfare, or public safety require town council re-approval. In such instances the town manager shall require the application to be reviewed in accordance with the procedures set forth in subsection 4.5.3. All further requests for extension of time shall be reviewed in accordance with the procedures set forth in subsection 4.5.3.

*(c) Completion time limit.* (1) If all construction and actions authorized or required by a special use permit or modification of special use permit are not completed by the completion date stipulated in the permit or modification, the permit holder may request an extension of the completion time limit from the town manager. The town manager may grant ~~a single~~ an extension of the time limit for up to twelve (12) months if he/she determines that:

- A. The permit holder submitted the request within sixty (60) days after the completion date;
- B. The permit holder has proceeded with due diligence and good faith; and
- C. Conditions have not changed so substantially as to warrant town council reconsideration of the approved development.

(2) Under the standards required by (c)(1)(A) through (c)(1)(C), above, the town manager may approve one additional extension of the completion time limit for up to twelve (12) months. If all of the construction and actions authorized or required by a special use permit or modification of special use permit are still not completed by the extended completion date granted by the town manager, the permit holder may, within sixty (60) after ~~days~~ of the revised completion date, request additional extensions of the completion time limit from the town council. The town council may grant extensions of the time limit if it makes the determinations required by (c)(1)(A) through (c)(1)(C), above.

## **3. Amend Section 4.7.6 (a) Expiration of Site Plan Review Approval**

*(a) Starting time limit.*

If the use, construction, or activity authorized by approval of an application for a zoning compliance permit or modification of zoning compliance permit is not started within twelve (12) months of the date of approval, or within such further time stipulated in the approval, the approval shall expire and any town permit issued pursuant to the approval shall be void. The town manager may grant ~~a single~~ an extension of the starting time limit for up to twelve (12) months~~7~~. At any time within the initial period of extension, the town manager may approve one additional extension of the starting time limit for up to twelve (12) months. With respect to either request for extension, for paramount considerations of

~~health, the general welfare, or public safety, the town manager may instead unless he/she determines that paramount considerations of health, the general welfare, or public safety require planning commission re-approval. The town manager shall determine whether the use, construction, or activity has started.~~

#### **4. Amend Section 4.8.2 (j). Expiration of master land use plan approval**

*(j) Expiration of master land use plan approval.*

If an application for development of at least one phase has not been accepted by the town manager within two (2) years of the date of approval of the master land use plan, the approval shall automatically expire. After that time the applicant may resubmit the original application. The town manager may re-approve that application unless he/she determines that paramount considerations of health, the general welfare, or public safety require the application to be reviewed in accordance with the procedures set forth in subsections (a) through (h), above. The town manager may re-approve the application ~~only once,~~ for a period of twelve (12) months. If requested within the initial re-approval period, the town manager may re-approve the application for one additional period of up to twelve (12) months.

- 5.** This ordinance shall be effective upon enactment and shall apply to applications and requests made after enactment and to requests for extension pending at the time of enactment.