



CLOSE THE LEGISLATIVE HEARING AND CONSIDER A LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT – ARTICLES 3, 4, 5, AND APPENDIX A REGARDING AFFORDABLE HOUSING DEVELOPMENT REVIEW STANDARDS

Staff Memorandum

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<p>Amendment Request Amend sections of the Land Use Management Ordinance (LUMO) to establish a new conditional zoning district and associated review process for affordable housing developments.</p>	<p>Meeting Date November 16, 2022</p>
<p>Town Manager’s Recommendation: I have reviewed and discussed key issues with Town staff. Based on the information in the record to date, I believe the Council could make the findings required to approve the proposal, and therefore should close the Legislative Hearing, adopt the Resolution of Consistency, enact Ordinance A, and adopt the Resolution Regarding Advisory Board Review.</p>	
<p>Updates since the October 19, 2022, Legislative Hearing:</p> <ol style="list-style-type: none"> 1. The maximum floor area of non-residential uses (excluding uses that are accessory to residential uses) permitted in the development has increased from 15% of total floor area to 25% of total floor area. 2. The range of allowable non-residential uses has also been broadened to substantially mirror the allowable uses in the existing Mixed Use-Village zoning district (MU-V). 	
<p>Process: The item before the Council requests approval of a LUMO Text Amendment. The Council must consider whether one or more of the three findings for enactment of the LUMO Text Amendment applies:</p> <ol style="list-style-type: none"> 1. To correct a manifest error in the chapter; or 2. Because of changed or changing conditions in a particular area or in the jurisdiction generally; or 3. To achieve the purposes of the Comprehensive Plan. 	<p>Decision Points:</p> <ol style="list-style-type: none"> 1. Establish a new a Residential-Community Priority-Conditional Zoning District (R-CP-CZD) 2. Adopt a streamlined Community Priority Process for Affordable Housing Development Review that will allow for Council action on a Conditional Zoning (CZ) application within six months of submission. 3. Modify development regulations related to common site constraints for affordable housing developments.
<p>Text Amendment: Establishes a new Residential-Community Priority-Conditional Zoning District (R-CP-CZD) and Community Priority Process for Affordable Housing Development Review (CPP-AH)</p> <ol style="list-style-type: none"> 1. Exempts R-CP-CZD applications from Concept Plan Review. 2. Reduces the level of technical details applicants must submit prior to securing an entitlement, thus reducing up-front risks. Full technical details will still be required after Council approval during Final Plan review and permitting. 3. Delegates additional authority to staff for minor modifications to R-CP-CZD projects post-entitlement. 4. Exempts R-CP-CZD applications from Final Plan review by the Community Design Commission. 	
<p>Resolution Regarding Advisory Board Review: A policy accompanying this text amendment exempts eligible applicants from review by all advisory boards except for Planning Commission. The policy is not included as part of the text amendment because advisory board review is not currently mandated by the LUMO. The policy will be formalized by the Resolution Regarding Advisory Board Review, which is also before Council. Rather than undergoing advisory board review, eligible applicants will collaborate with a proposed “Design Review Team” that will review and comment on early-stage conceptual plans and the formal Conditional Zoning application. The Design Review Team will be led by the Planning Department and will likely include additional members such as the Town Urban Designer, Sustainability Officer, and Affordable Housing staff.</p>	

Additional detail regarding the Design Review Team and Advisory Board Exemption are included in the attached memorandum.

Plan Consistency:

As outlined in detail in the Technical Report, the proposed text amendment is consistent with and would support achievement of several of the Town's adopted plans, including:

- the Chapel Hill 2020 Comprehensive Plan;
- the Chapel Hill Future Land Use Map; and
- the Chapel Hill Climate Action and Response Plan.

Attachments:

1. Technical Report
2. Staff Memorandum – Design Review Team
3. Draft Staff Presentation (*to be added*)
4. Resolution A (Resolution of Consistency)
5. Ordinance A (Enactment of Land Use Management Text Amendment Proposal)
6. Resolution B (Deny Land Use Management Text Amendment Proposal)
7. Resolution C (Regarding Advisory Board Review)



TECHNICAL REPORT

DISCUSSION DURING THE OCTOBER 19, 2022, LEGISLATIVE HEARING

During the October 19, 2022, hearing, Council discussed the text amendment and was generally supportive of the proposal. Council's discussion included the following:

- The need to streamline the development review process for affordable housing developments;
- Increasing the allowable proportion and diversity of non-residential uses;
- Broadening staff authority to approve minor modifications;
- Ensuring opportunities for meaningful public engagement;
- Monitoring and evaluating implementation of the Community Priority Process for Affordable Housing Development Review and identifying opportunities for broader reforms of the development review process;
- Considering eligibility criteria that would require more rental units to be affordable at or below 60 percent of Area Median Income (AMI);
- Better utilizing staff time and expertise;
- Eliminating parking minimums in the Residential-Community Priority-Conditional Zoning District (R-CP-CZD);
- Maintaining the role of advisory boards in the review process; and
- The role of the Planning Commission in representing the interests of advisory boards.

PROJECT HISTORY/BACKGROUND

On September 22, 2021, Town Council issued a [Petition Regarding Affordable and Missing Middle Housing](#)¹ which directed staff to create an expedited application process for developments with a significant affordable housing component. In addition to Council's Petition, major initiatives supported by the Town have underscored the severity of the Town's housing needs:

- [Projected Housing Needs](#)², 2020-2040 (Oct. 2021): UNC and the Town jointly funded a report to determine housing needs. The report found that the Town's current housing stock fails to meet the needs of a wide range of households, including: first-time buyers, families with young children, divorcees, empty nesters, and seniors. The report estimated that Chapel Hill will need to increase annual housing production by 35 percent, bringing the annual production rate to roughly 485 units per year.
- [Complete Community Strategy](#)³ (2021 – Present): The Town is working with consultants to develop a new approach to housing that clarifies where and how it is built to create inclusive, sustainable, and complete communities. Among the "Hard Truths" highlighted by this work are the facts that Chapel Hill is an exclusive place which needs to reset its "trajectory for the future to make the Town more affordable, equitable, and sustainable for all" and that a "broken" process discourages development.

¹ <https://chapelhill.legistar.com/View.ashx?M=F&ID=9834553&GUID=1DB8AFA8-3BDF-42E2-9E41-D6747BD4ECF4>

² <https://www.townofchapelhill.org/home/showpublisheddocument/50141/637715343396500000>

³ <https://www.townofchapelhill.org/businesses/complete-community>

- [Shaping Our Future](#)⁴ (Feb. 2022 – Present): The Shaping Our Future initiative is intended to inform the Town’s efforts to both update LUMO and better incorporate Transit Oriented Development (TOD) into the Town’s planning efforts. Gaining a better understanding of how the Town’s land use patterns serve its current and projected needs has been a cornerstone of this work. Research underlying the initiative suggests that, at present, there is unmet need for more than 3,000 dwelling units for households earning 60% or less of Area Median Income.

Since receiving Council’s petition, Town staff have engaged with stakeholders in the affordable housing development and advocacy community, executed a pilot project to test the feasibility of different strategies for streamlining review, conferred with the Housing Advisory Board, and held multiple work sessions with Town Council. The resulting text amendment is responsive to Council’s petition, several adopted plans, and the expressed needs of a variety of stakeholders.

PROPOSED TEXT AMENDMENT CHANGES

The following is a summary of a text amendment that would (1) create a new Residential-Community Priority-Conditional Zoning District (R-CP-CZD) and (2) establish a new Community Priority Process for Affordable Housing Development Review.

1. Establish a new Residential-Community Priority-Conditional Zoning District (R-CP-CZD).

- To be eligible for the R-CP-CZD, developments must meet the following criteria:
 1. Rentals Units: Thirty percent of rental units must be affordable at or below 60 percent of Area Median Income (AMI) for a period of at least 30 years;
 2. For-Sale Units: Thirty percent of for-sale units must be affordable at or below 80 percent of AMI for a period of at least 99 years.
- Uses: All current and proposed dwelling unit types will be allowed in the Residential-Community Priority-Conditional Zoning District (R-CP-CZD). In order to facilitate the provision of supportive services and other amenities for residents and to further bolster efforts at creating vibrant, walkable communities, certain non-residential uses will be allowed in the Residential-Community Priority-Conditional Zoning District (R-CP-CZD) as long as they do not account for more than 25 percent of the total floor area of the development they are part of.

These non-residential uses allowed in the R-CP-CZD largely mirrors those allowed in the Mixed-Use Village Conditional Zoning District (MU-V-CZD). The list of non-residential uses allowed in the Mixed-Use Village Conditional Zoning District (MU-V-CZD) formed an appropriate basis because such uses have already been deemed by Town Council as compatible with residential uses.

- Dimensional, Design, and Development Standards: The dimensional, design and development standards associated with the Residential-Community Priority-Conditional Zoning District (R-CP-CZD) largely mirror those of the existing Residential-Special Standards-Conditional Zoning District (R-SS-CZD), which was also established to promote affordable housing. Recognizing that affordable housing developments are often located in areas with significant site constraints, the standards for the Residential-Community Priority-Conditional Zoning District (R-CP-CZD) vary from those of the Residential-Special Standards-Conditional Zoning District (R-SS-CZD) in certain key areas to provide developers additional

⁴ <https://www.townofchapelhill.org/government/departments-services/planning/plans-and-ordinances/current-initiatives>

flexibility to make the best use of available land. Key differences for properties in the Residential-Community Priority-Conditional Zoning District (R-CP-CZD) include:

- Buffers: Multifamily uses with 5 or more units and any non-residential uses must be separated from adjacent, off-site residential uses by a 10-foot Type "B" buffer. The requirement does not apply if the adjacent properties are zoned Town Center (TC), Mixed Use (MU), or Office/Institutional (OI). The Town Manager may waive the buffer requirements if site constraints make the buffer impracticable.
- Parking: Parking minimums are reduced by 20 percent for residential uses.
- Parking lot landscaping: Only new parking lots with more than 20 spaces must comply with parking lot landscaping standards.
- Foundation Buffer Strips: Width is reduced to an average of 3 feet (as measured along each face of the building) and paved pedestrian walkways may be installed in place of a buffer strip if they are not adjacent to the windows of a dwelling unit.
- Parking lot interior islands: Interior islands are not required.

2. The text amendment also establishes a new Community Priority Process for Affordable Housing Development Review.

The proposed Community Priority Process for Affordable Housing Development Review (CPP-AH) will be used to review and entitle projects that are eligible for rezoning to a Residential-Community Priority-Conditional Zoning District (R-CP-CZD). Key features include:

- Concept Plan Review: Projects rezoned to Residential-Community Priority-Conditional Zoning District (R-CP-CZD) will be exempt from Concept Plan Review.
- Staff review focused on feasibility: Under the traditional conditional zoning process, technical staff reviews focus on whether the final project will be compliant with LUMO (a process that is duplicative of Final Plans Review). Under the CPP-AH, technical staff review will instead focus on determining the feasibility of compliance (i.e., whether there are fatal flaws in a proposed project that would preclude compliance at the Final Plans stage).
- Community priority rezoning plan: Unlike the highly detailed "district specific plans" that accompany most conditional rezonings, rezonings under the community priority process will generate a community priority rezoning plan. The CPP rezoning plan will indicate buildings, circulation, and other site features at a more general schematic level than traditional district specific plans.
- Consolidated Town Council action: Town Council will be able to hold a legislative hearing and vote on an application for a rezoning at the same hearing.
- Expanded authority for administrative minor modifications: Following entitlement, staff will have expanded authority to approve modifications to the approved CPP rezoning plan without the need for further Council action. This expanded authority will provide developers additional flexibility and further reduce the costs associated with developing CPP rezoning plans. Modification that will be allowed with administrative approval include:

1. An increase in the number of buildings that results in no more than a five (5) percent increase in total floor area and no more than a five (5) percent increase in impervious surface, provided that any additional buildings are located entirely within an area defined by the footprints of approved structures plus twenty-five (25) feet extending in all directions. Unless the abutting property is located in a Town Center (TC), Mixed Use (MU), or Office/Institutional (OI) district, such additional structures may not be located within fifty (50) feet of an exterior property line.
 2. Relocation of buildings by no more than 100 feet, provided that an approved building may not be moved closer than 50 feet to a property line. If Council approves a building closer than 50 feet to a property line, staff may approve a relocation that brings the building up to 15 percent closer to the property line.
 3. Relocation of recreation space or area, provided that the total amount of recreation space or area is not reduced and accessibility from affordable dwelling units is not negatively impacted.
 4. Reconfiguration or relocation of internal streets, sidewalks, trails, or parking areas provided that no additional encroachment or disturbance in the Resource Conservation District (RCD) is required.
 5. Addition of bicycle/pedestrian access points to a preexisting public right-of-way.
 6. Minor changes to the location of bicycle/pedestrian or vehicular access to public rights-of-way.
 7. Alteration of building design elements (as defined in NCGS 160D-702(b)), including: exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms.
 8. A change in total floor area of 20 percent or less.
 9. A change in parking spaces of 10 percent or less.
- Community Design Commission (CDC) Final Plans Review: Projects rezoned to Residential-Community Priority-Conditional Zoning District (R-CP-CZD) will be exempt from CDC Final Plans Review.

3. A policy accompanying this LUMO Text Amendment will exempt projects from review by all advisory boards except the Planning Commission. Instead of advisory board review, eligible projects will undergo consultation and review with a proposed "Design Review Team" (DRT). Further detail about the DRT and its role in the CPP-AH can be found in the attached memo.

C. Plan Consistency

As outlined below, the proposed text amendment is consistent with and will further efforts to achieve several adopted Town plans including: the Chapel Hill 2020 Comprehensive Plan, the Chapel Hill Future Land Use Map, and the Chapel Hill Climate Action and Response Plan.

Plan	Goals or Themes
<p><u>Chapel Hill 2020 Comprehensive Plan</u> Adopted: June 25, 2012</p>	<p>Chapel Hill's development review processes are neither clear nor reliably aligned with the Town's goals. Updating these processes is critical.</p> <ul style="list-style-type: none"> • <i>Goal: A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan. (Good Places, New Spaces.3)</i>

- *Goal: A community that welcomes and supports change and creativity (Good Places, New Spaces.6)*
- Streamlining the development review process for affordable housing can encourage and support increased housing production and foster more robust neighborhoods.
- *Goal: A range of housing options for current and future residents (A Place for Everyone.3)*
 - *Goal: Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Good Places, New Spaces.8)*
 - *Goal: Housing for students that is safe, sound, affordable, and accessible and meets a demonstrated need conducive to educational and maturational needs of students, and housing for Town, University, and the Health Care System employees that encourages them to reside in the community (Town Gown Collaboration.4)*
 - *Goal: A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Good Places, New Spaces.5)*

Ensuring an adequate supply of affordable housing is critical to maintaining Chapel Hill's character as an inclusive community in which all residents can thrive.

- *Goal: A welcoming and friendly community that provides all people with access to opportunities (A Place for Everyone.4)*

Promoting workforce housing helps employers and employees alike.

- *Goal: Foster success of local businesses (Community Prosperity and Engagement.2)*

Encouraging development that is responsive to the needs of all Chapel Hill residents can also help the Town preserve open spaces while maximizing the beneficial use of more urban areas.

- *Goal: Low density, green Rural Buffers that exclude urban development and minimize sprawl (Good Places, New Spaces.1)*
- *Goal: A vibrant, diverse, pedestrian-friendly, and accessible downtown with opportunities for growing office, retail, residential, and cultural development and activity (Good Places, New Spaces.2)*

Future Land Use Map

**Adopted:
Dec. 9, 2020**

Guiding Statement 1: Respond to the threats associated with climate change and environmental stewardship and resiliency by:

- Creating compact, walkable, mixed-use communities where activities are in close proximity and require less time and energy to access and travel between destinations.
- Densifying at strategic locations and mixing land uses shortens trips and reduces car dependency.
- Supporting transit systems through additional housing units and more intense land uses.

Guiding Statement 2: Ensure equitable planning and development. Ensure that "all current and future community members participate in and benefit from development and economic growth and activity in the

	<p>Town – especially low-income residents, communities of color, immigrants, and others who have been historically excluded and are at risk of future marginalization.”</p> <ul style="list-style-type: none"> ○ Mitigate residential displacement as development and redevelopment occurs. ○ Provide affordable housing options for all family sizes and incomes in all neighborhoods. ○ Preserve and strengthen intact neighborhoods, building upon local assets and resources. <p>Guiding Statement 3: Encourage a Diversity of Housing Types. The Town will encourage additional housing options that are both affordable and desirable for households and individuals with a range of income levels.</p> <p>Guiding Statement 4: Promote distinctive, safe, and attractive neighborhoods. The Town should preserve and enhance established neighborhoods by directing dense growth to multimodal and key transportation corridors facilitating connections to those corridors in order to promote a multimodal network thereby potentially reducing vehicular trips and increasing mobility options.</p> <p>Guiding Statement 9: Preserve and maintain Chapel Hill’s appearance and create the quality of design and development the Town desires. The Town encourages high quality development understanding that different areas of Town will have different character and defining characteristics.</p>
<p><u>Climate Action & Response Plan</u></p> <p>Adopted: April 7, 2021</p>	<p>Action: Create walkable, bikeable, transit-served neighborhoods by incentivizing more compact, affordable, and mixed income housing, including “missing middle” and accessory dwelling units (ADUs).</p>

LAND USE MANAGEMENT ORDINANCE FINDINGS OF FACT

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

<p>FINDING #1: The proposed zoning amendment is necessary to correct a manifest error.</p>	
<p>Arguments</p>	<p>To date, no arguments in support or in opposition have been submitted or identified by staff.</p>
<p>Staff Evaluation</p>	<p>There appears to be no manifest error in the Town’s Zoning Atlas.</p>
<p>FINDING #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.</p>	
<p>Arguments</p>	<p>Staff notes that, in recent years, housing prices have increased significantly in Chapel Hill while the available stock of affordable housing has failed to match demand.</p> <p>To date, no arguments in opposition have been submitted or identified by staff.</p>

Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions in Chapel Hill.
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FINDING #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.

Arguments	Staff notes that the text amendment could contribute to the purposes of the Comprehensive Plan based on consistency with the Goals and Themes as detailed in the Plan Consistency section above. To date, no arguments in opposition have been submitted or identified by staff.
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Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.
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Further information may be presented for the Council’s consideration as part of the legislative hearing process. All information submitted at the legislative hearing will be included in the record of the hearing.