



**Town Council Work Session:**

Rewriting Our Rules – A Land Use Management Ordinance (LUMO) Update

**Planning Staff:**

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**Town Council Work Session Date:**

January 22, 2025

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Planning and Affordable Housing staff propose to improve the Town’s Inclusionary Zoning rules (IZ) through a series of reforms including:

- (1) adjustments to better align the Town’s Inclusionary Zoning rules with other major changes in LUMO
- (2) technical fixes to improve how we administer the IZ
- (3) new voluntary provisions to support expanded by-right development opportunities

**Staff Recommendation:** *Increase the applicability threshold for IZ from 5 units to 31 units.*

The IZ currently applies to for-sale projects with **at least 5 lots or dwelling units**. It also serves as the starting point for negotiations around affordable housing commitments from rental projects approved through the conditional zoning process.

Earlier economic analysis shared with Council demonstrated that the IZ currently applies to projects that are likely too small to bear the cost associated with providing affordable units. Combined with a wide variety of other pressures (e.g., difficult market conditions and onerous development review processes), this low applicability threshold may have been a contributing factor in disincentivizing some residential development over the years.

Under the proposed LUMO, the regular IZ will apply to multifamily developments with **more than 30 units** (the same threshold as conditional zonings). Single-family subdivisions will continue to have the same threshold as before.

As discussed in more detail later in this memo, projects not subject to the regular IZ will be eligible for significant incentives if they voluntarily provide affordable units.

**Staff Recommendation:** *Simplify IZ affordability targets.*

We propose simplifying how affordability targets are calculated. *The change will not decrease the number of affordable units the Town requests from new development.*

The traditional IZ calls for 15% of **market-rate units** in a multifamily development to be affordable. The way the target is currently structured causes complexity and confusion. For example, at first glance, the target might suggest that a hypothetical 100-unit development would be expected to include 15 affordable units. However, because the target is based on the number of market-rate units (rather than the total number of units) a 100-unit development would actually be required to provide 13 affordable units.

We propose updating the affordability target to 13% of **total units**. This adjustment will not reduce the number of affordable units the town expects from new development. However, it will streamline how the Town communicates about affordability targets and simplify how staff and developers determine the number of affordable units expected from a new project.

**Staff Recommendation:** *Add new voluntary affordability targets and incentives to the Inclusionary Zoning ordinance to promote affordable housing in by-right development projects.*

Supplementing the traditional IZ with voluntary provisions targeted at by-right development can help the Town secure affordable housing agreements from smaller residential projects.

### **Relationship to Earlier Analysis**

In our April 24, 2024, [memo to Council<sup>1</sup>](#), we explained that an incentive-based program could not effectively replace the Town's ability to negotiate for affordable housing through the conditional zoning process. That conclusion still stands. The incentives recommended here are intended for smaller development projects that do not meet the threshold to go through the conditional zoning process. As such, these incentives would complement – but not replace – conditional zoning.

### **Affordable Housing Incentives**

The proposed incentive program is based on two affordability targets, with each offering different bonuses to homebuilders.

The lower target (13% of total units) is consistent with current policy and is intended to address typical market-rate builders that may be able to include affordable units in their development.

The higher target (40% of total units) is intended to address mission-oriented builders like Habitat for Humanity and EMPOWERment and builders that specialize in Low-Income Housing Tax Credit (LIHTC) projects. While these builders typically develop projects that are 100% affordable, a 40% target allows for more flexibility to explore creative partnerships and development types.

Potential incentives for each affordability target are discussed below. Table 1 indicates the general type and magnitude of incentives being considered. However, the affordability targets and the specific values associated with each incentive are subject to change based on further analysis and engagement with homebuilders and affordable housing stakeholders.

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<sup>1</sup> <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=6636497&GUID=45D24D2F-25AA-4384-BD33-0E88466F0BAB&Options=&Search=>

<b>Affordability Target</b>	13% of total units	40% of total units
<b>By-Right Unit &amp; Floor Area Bonus</b>	60% increase	150% increase
<b>FAR Bonus</b>	60% increase	100% increase
<b>Height Bonus</b>	60% increase *	60% increase *
<b>Setback &amp; Landscape Buffer Reductions</b>	25% decrease	50% decrease
<b>Units Per Lot Bonus</b>	N/A	Up to 4 units allowed on any lot on which 2 units are permitted by-right.

\* Not available in Downtown zoning districts

*By-Right Unit and Floor Area Bonus*

At baseline, the draft LUMO is likely to allow 30 units (or 30,000 square feet) of residential development by-right. A bonus related to this threshold would allow administrative approval of larger projects so long as they meet the affordability targets.

For projects that meet the 13 percent affordability target, this bonus would allow up to 48 units (or 48,000 square feet) of residential development by-right. Allowing this size of development through an administrative approval would be well-aligned with the historical trends for conditional zoning (CZ) in Chapel Hill. As outlined in our May 15, 2024, [memo to Council<sup>2</sup>](#), of the 21 residential CZs approved by Council, 19 have included 47 or more units. The remaining two CZs (PEACH Apartments with 10 units and Gattis Court with 4 units) were fully affordable projects pursued by EMPOWERment and Habitat for Humanity. In this context, the 13 percent target would help to fill the gap between the proposed by-right threshold of 30 units and the historical lower limit of conditional zoning projects.

For projects that meet the 40 percent affordability target, this bonus would allow up to 75 units (or 75,000 square feet) of residential development by-right. This scale of development is particularly well-suited for homebuilders that specialize in LIHTC projects.

*FAR Bonus*

Floor Area Ratio (FAR) limits the amount of floor area that can be built on a site based on the size of the site<sup>3</sup>. Lower FARs generally result in low density, rural or suburban development patterns while higher FARs can support more urban development patterns.

<sup>2</sup> <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=6659185&GUID=4FBB2F54-B4C7-4118-99C4-588AC3257690&Options=&Search=>

<sup>3</sup> Floor Area Ratio controls building size based on the formula: **Buildable Floor Area = Lot Size x Floor Area Ratio**. For example, a 1-acre (43,560 square feet) lot subject to a floor area ratio of 1.97 (the FAR currently allowed in the Town Center-2 zoning district) would be able to support a building with a maximum floor area of 85,813 square feet. If the same lot were subject to a floor area ratio of .076 (the FAR currently allowed in the Residential-1 zoning district), it would be able to support a building with a maximum floor area of just 3,310 square feet.

With Chapel Hill's continued growth, the inventory of large undeveloped lots is limited. As a result, development and redevelopment of smaller lots is likely to become more common. However, FAR is often the limiting factor for new development on smaller lots. Constraints on small-lot development can often push developers to wait until they have assembled enough contiguous lots to support an economically feasible project. This dynamic can increase project costs and slow down the production of new housing. An FAR bonus could allow homebuilders that provide affordable housing to make more efficient use of smaller lots around town.

### *Height Bonus*

Like an FAR bonus, a height bonus can help homebuilders make more efficient use of their land. Buildings that take advantage of a height bonus would still be subject to transitional height limitations that limit building heights near residential zoning districts and other proposed massing restrictions (like mandatory step backs of building facades) intended to address their visual impact and relation to neighbors. Height bonuses would not be available in downtown because the height limits there are already relatively permissive.

### *Setback and Landscape Buffer Reductions*

Setbacks define how close buildings can be to the street and property lines. Reducing setbacks can provide additional buildable area on a lot. Where a reduction in setback would conflict with landscape buffer requirements, the buffers can also be reduced accordingly.

### *Units Per Lot Bonus*

This bonus would allow construction of four dwelling units on any lot on which a duplex would be allowed. It is likely that the bonus would be used primarily to build 100 percent affordable projects. However, keeping the eligibility threshold for this bonus below 100 percent maintains some flexibility for homebuilders interested in pursuing novel development options.

A recent Habitat for Humanity project – Gattis Court – serves as a good example of how this bonus could clear the path for more *genuinely affordable* missing middle housing. Habitat for Humanity recently undertook a costly and time-intensive conditional zoning process to allow a development of just four units. With this bonus in place, more lots could be used to build affordable fourplexes by-right.