



CONSIDER A LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT – PROPOSED CHANGES TO ARTICLES 3 AND 4 TO EXPAND CONDITIONAL ZONING DUE TO COVID-19 & STATE STATUTE 160D

STAFF REPORT

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AMENDMENT REQUEST

Amend portions of Articles 3 and 4 of the Land Use Management Ordinance (LUMO) to 1) facilitate development applications delayed by COVID-19 due to concerns over quasi-judicial hearings in a virtual environment and 2) bring portions of the LUMO into compliance with 160D, which is the State legislation modifying the North Carolina statutes for development regulations.

DATE

September 1, 2020

STAFF RECOMMENDATION:

Review the proposed Ordinance and Resolutions and forward a favorable recommendation to the Council for the Council’s review at the September 30, 2020 Public Hearing.

PROCESS

The LUMO requires the Planning Commission to make a recommendation to the Town Council on the proposed text amendment. The Council must consider the following **three factors** for enactment of the Land Use Management Ordinance Text Amendment:

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.

KEY ISSUES

- In response to the COVID-19 crisis, the State government created specific provisions for remote public meetings that became effective May 4, 2020 and remain in effect during the current State of Emergency.
- Under the new State provisions, quasi-judicial evidentiary hearings may only be held if all individuals who have standing are notified and provide written consent for a remote hearing. This requirement makes it very challenging to hold public hearings on a Special Use Permit (SUP) application since it is often difficult to determine standing before the public hearing takes place.
- Conditional Zoning is a review process that closely resembles Special Use Permit review. The legislative public hearings that are necessary for Conditional Zoning review face fewer obstacles under the new State provisions for virtual hearings.
- The proposed amendments will allow development applications to convert from the SUP quasi-judicial process to a legislative one, allowing them to be reviewed and considered using the Town’s established development review process. In addition, the proposed amendments will bring the affected LUMO provisions into compliance with the 160D legislation.

CONSISTENCY WITH COMPREHENSIVE PLAN

The proposed text amendment promotes the following Chapel Hill 2020 Comprehensive Plan goals:

- A community that welcomes and supports change and creativity (GPNS.6)
- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (GPNS.3)

ATTACHMENTS

1. Text Amendment Overview
2. Resolution of Consistency (for proposed Land Use Management Ordinance amendment)
3. Ordinance A (Enactment of Land Use Management Text Amendment Proposal)
4. Resolution B (Deny Land Use Management Text Amendment Proposal)

¹ https://library.municode.com/nc/chapel_hill/ordinances/code_of_ordinances?nodeId=886103



PROPOSED CHANGES: TEXT AMENDMENTS TO THE LAND USE MANAGEMENT ORDINANCE ARTICLES 3 AND 4 REGARDING EXPANDING THE UTILITY CONDITIONAL ZONING

The following is a brief summary of the proposed text amendments necessary to expand conditional zoning in order to facilitate development applications challenged by State requirements on virtual quasi-judicial hearings and to bring portions of the LUMO into compliance with 160D.

TEXT AMENDMENT OVERVIEW

- Prior to the Town's adoption of conditional zoning, many development options and zoning districts required a Special Use Permit. Two such districts are the Residential-Special Standards-Conditional use district (R-SS-C) and the Mixed Use-Village district (MU-V). Most of the proposed amendments are necessary to convert these two districts to conditional zoning districts. The existing regulations for these districts are not changing except where necessary to make the conversion or to align provisions with other LUMO sections.
- Another amendment related to facilitating the use of Conditional Zoning is changing the definition of "S" in the Use Matrix, which is Table 3.7-1. This change would permit uses that are defined as "Special Uses" in the Use Matrix, such as Drive-in windows, to be considered and permitted as part of a conditional zoning application.
- Under 160D, conditional use district zoning will no longer be permissible. Conditional use district zoning is the process of combining a rezoning with a special use permit. Conditional zoning will be the development tool available to municipalities. Any existing conditional use districts must convert to conditional zoning districts by December 31, 2020. When the Town established the conditional zoning districts that paralleled existing general use zoning districts in [November of 2017](#)¹, parallel districts were not created for the R-3 and R-4 districts. Since there are existing R-3 and R-4 Conditional Use Zoning Districts, it is necessary to create those conditional zoning districts in order to make the required conversion.

SUMMARY OF PROPOSED ORDINANCE

1. Section 2 of the proposed Ordinance – LUMO Section 3.4.2 - R-SS-C

- Converts the R-SS-C conditional use district to a conditional zoning district and provides direction on processing modifications for existing R-SS-C districts.

2. Section 3 of the proposed Ordinance – LUMO Section 3.4.3 – Conditional Zoning Districts

- Expands the list of parallel conditional zoning districts to include Residential District-3 (R-3) and Residential District-4 (R-4)
- Expressly creates two types of conditional zoning districts. Those that parallel existing general use districts and defined conditional zoning districts that include:
 - The existing Light Industrial Conditional Zoning District (LI-CZD);
 - The proposed Residential Special Standards Conditional Zoning District; and,
 - The proposed Mixed-Use Village (MU-V) Conditional Zoning District.

3. Section 5 of the proposed Ordinance – New LUMO Section 3.4.5

- Incorporates the existing objectives for the R-SS-C district into the proposed R-SS-CZD.

4. Section 6 of the proposed Ordinance – New LUMO Section 3.4.6

- Incorporates the existing regulations for the MU-V district into the proposed MU-V-CZD.

5. Section 8 of the proposed Ordinance – Table 3.7-1: Use Matrix

- Converts R-SS-C to R-SS-CZD
- Changes the definition of “S” in the Use Matrix so that uses designated as Special Uses may be considered as part of a conditional zoning request

6. Sections 9-13 of the proposed Ordinance – Changes to Multiple LUMO Tables/Sections

- These changes relate to integrating R-SS-CZD and MU-V-CZD into various sections of the LUMO

7. Section 14 of the proposed Ordinance – Appendix A - Definitions

- Includes new clarifying definitions