

**ORDINANCE A**

**(Enacting the Land Use Management Ordinance Text Amendment Proposal)**

**AN ORDINANCE AMENDING ARTICLES 3, 4, AND 8 AND APPENDIX A OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE REGARDING PLANNING SYSTEMS IMPLEMENTATION (2023-X-X/O-X)**

WHEREAS, at their September 20, 2023, work session, Town Council expressed interest in modifying existing procedures to better align with the Complete Community framework; and

WHEREAS, the Town Council discussed the role of advisory boards and commissions in the review and approval of land use applications. This included allowing the Board of Adjustment to review and approve modifications to Special Use Permits (SUPs) and giving the Planning Commission authority to review and provide comment on concept plans; and

WHEREAS, Land Use Management Ordinance Article 8 –Administrative Mechanisms summarizes the Charge and Powers of the Boards and Commissions for the Planning Commission, Board of Adjustment (BOA), Historic District Commission (HDC), and Community Design Commission (CDC); and

WHEREAS, Land Use Management Ordinance Article 8 currently does not provide Planning Commission with the ability to review concept plans, nor does it provide a mechanism for the BOA to review SUP modifications or smaller SUP projects; and

WHEREAS, Land Use Management Ordinance Appendix A currently requires Council to issue a Special Use Permit (SUP); and

WHEREAS, the Board of Adjustment reviewed the proposal to amend the Land Use Management Ordinance Articles 3, 4, and 8 and Appendix A on October 19, 2023, and recommended that the Council enact the text amendments; and

WHEREAS, the Community Design Commission reviewed the proposal to amend the Land Use Management Ordinance Articles 3, 4 and 8 and Appendix A on October 25, 2023, and discussed Council enacting of the text amendments; and

WHEREAS, the Historic District Commission reviewed the proposal to amend the Land Use Management Ordinance Articles 3, 4, and 8 and Appendix A on November 14, 2023, and discussed the Council enacting of the text amendments; and; and

WHEREAS, the Planning Commission reviewed the text amendments to the Land Use Management Ordinance Articles 3, 4, and 8 and Appendix A on November 8, 2023, and recommended that the Council enact/deny the text amendments; and

WHEREAS, on October 11, 2023, the Council called a Legislative Hearing to amend Articles 3, 4, and 8 and Appendix A of the Land Use Management Ordinance as it relates to Planning Systems Implementation for the Council’s November 15, 2023, meeting; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) Articles 3, 4, and 8, and Appendix A; and

WHEREAS, upon consideration the Council finds that the amendment, if enacted, is reasonable and in the public's interest and is warranted to achieve the purposes of the Comprehensive Plan as explained by, but not limited to, the following goals of the Chapel Hill 2020 Comprehensive Plan:

- A community of high civic engagement and participation (*Place For Everyone.5*)
- 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*)
- Adopt an integrated development review process that is fair and transparent and that incorporates the Chapel Hill 2020 environmental goals (*Nurturing Our Community.5*)

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Town Code of Ordinances, Appendix A. Land Use Management Ordinance, Articles 3, 4, and 8 shall be amended as follows:

**Section 1. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.6. Overlay Districts, Subsection 3.6.3 Resource Conservation District, Subsection (e) Permitted uses and activities in the resource conservation district, Table 3.6.3-2 Permitted Uses within Resource Conservation District is revised to read as follows:**

“Table 3.6.3-2: Permitted Uses within Resource Conservation District

(A)	(B)	(C)	(D)
Use	Stream Side Zone	Managed Use Zone	Upland Zone
Trails, greenways, open space, parks, and other similar public recreational uses and private recreational uses (consistent with Section 5.5.2(b) of this ordinance) that do not require the use of fertilizers, pesticides, or extensive use of fences, or walls	P	P	P
Outdoor horticulture, forestry, wildlife sanctuary, and other similar agricultural and related uses not enumerated elsewhere in this Table that do not require land-disturbing activities or use of pesticides, or extensive use fences or walls	P	P	P
Pastures or plant nurseries that do not require land-disturbing activities or use of pesticides, or extensive use fences or walls	N	P	P
Gardens, play areas and other similar uses which do not require the use of pesticides for routine maintenance	N	P	P
Lawns, golf course fairways, play fields and other areas which may require the use of fertilizers or pesticides	N	N	P

Archery ranges, picnic structures, playground equipment and other similar public and private recreational uses that do not require the use of fertilizers, pesticides, or extensive use fences or walls	N	P	P
Public utility and storm drainage facilities where there is a practical necessity to their location within the Resource Conservation District	P	P	P
Streets, bridges, and other similar transportation facilities where there is a practical necessity to their location within the Resource Conservation District	<b>S S<sub>m</sub></b>	<b>S S<sub>m</sub></b>	<b>S S<sub>m</sub></b>
Sidewalks	P	P	P
Accessory land-disturbing activities ordinarily associated with a single-family or two-family dwelling, such as fences, gardens, and similar uses	N	P	P
Driveways and utility service lines when there is a practical necessity	P	P	P
Public maintenance of streets, bridges, other similar transportation facilities and/or public utility and storm drainage facilities	P	P	P
Detention/retention basin and associated infrastructure	N	P	P
Lakes, ponds, and associated infrastructure, such as dams, spillways, riser pipes and stilling basins, that are located outside of the regulatory floodplain, shall be permitted with a Special Use Permit pursuant to Section 4.5 of this Chapter and only if a demonstrated public purpose is served	<b>S S<sub>m</sub></b>	<b>S S<sub>m</sub></b>	<b>S S<sub>m</sub></b>
Stream and riparian area restoration and maintenance	P	P	P

"P" means the activity is permitted as of right, "N" means that the activity is prohibited; "S<sub>m</sub>" means that the activity is permitted only upon approval of a special use permit-**minor**, a parallel/defined conditional zoning district, or a subdivision application by the town council; "V" means that the activity is permitted only with a variance granted by the board of adjustment."

**Section 2. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.7: Use regulations, Subsection 3.7.2 Use Matrix, Table 3.7-1: Use Matrix is hereby amended and revised footnotes as follows:**

[Portions of the Table 3.7-1 not appearing in the excerpt below to remain unchanged.]

Uses	Use Group	Zoning District																	Historic Rogers Road Neighborhood District					Planned Develop (PD-)										
		R-LD5	RT	R-LD1	R-1A	R-1	R-2	R-2A	R-3	R-4	R-5	R-6	R-SS-CZD	R-CP-CZD	TC-1, TC-2, TC-3	CC	N.C.	OI-1	OI-2	OI-3	OI-4	I	LI-CZD	MH	HR-L	HR-M	HR-X	HR-C	H	SC(N)	SCI	OI		
Automated teller machines (ATM) (Drive-up)	C	-	-	-	-	-	-	-	-	-	-	-	-	-	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	-	-	-	-	-	P	P	P	P			
Car wash (See also Article 6)	C	-	-	-	-	-	-	-	-	-	-	-	-	-	U <sub>M</sub>	U <sub>M</sub>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
Cemetery (See also Article 6)	A	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	-	-	-	-	-	-	S <sub>M</sub>	S <sub>M</sub>	-	-	-	-	-	-	-	-	-				
Drive-in window (See also Article 6)	C	-	-	-	-	-	-	-	-	-	-	-	-	-	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	U <sub>B</sub>	-	-	-	-	-	-	A	A	A			
Fraternity dwelling (See also Article 6)	B	-	-	-	-	-	-	-	-	S <sub>M</sub>	S <sub>M</sub>	-	-	S <sub>M</sub>	S <sub>M</sub>	-	S <sub>M</sub>	S <sub>M</sub>	P	P	-	-	-	-	-	-	-	-	-	-	-			
Group care facility (See also Article 6)	B	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	-	-	P	P	P	P	P	P	P	-	-	-	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	-	A	-	-	P	
Independent Senior Living Facility (See also Article 6)	B	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	-	CZ**	P, A	P, A	P, A	P, A	P, A	P, A	P, A	-	-	-	-	-	P	-	A	-	P, A	P, A	
Park/ride (See also Article 6)	C	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	-	-	-	P, A	P, A	P, A	P, A	P, A	P, A	P, A	YZ	-	-	-	-	-	A	P, A	P, A	P, A	
Place of assembly, over 2,000 seating capacity (See also Article 6)	C	-	-	-	-	-	-	-	-	-	-	-	-	-	S <sub>M</sub>	S <sub>M</sub>	-	-	-	S <sub>M</sub>	P	-	-	-	-	-	-	-	-	-	-	-	P	P
Public service facility (See also Article 6)	C	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	-	-	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	YZ	-	-	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	S <sub>M</sub>	A	P, A	P, A	P, A



**"SM" Permitted as a special use- major or as a CZ in the parallel conditional zoning districts enumerated in 3.4.3(a):**

**"S" Permitted as a special use or as a CZ in the parallel conditional zoning districts enumerated in 3.4.3 (a):**

"A" Permitted as an accessory use; In LI-CZD refer to [Article 6](#) of this appendix for standards applicable to accessory uses labeled as "AY".

"P" In OI-3, OI-4, LI-CZD and MH: Permitted as a principal use;

"CZ" Permitted as a principal use in the parallel conditional zoning district and in the defined conditional zoning districts;

"Y" In LI-CZD, permitted under additional prescribed standards in [section 6.22](#)

**Except in OI-3, OI-4, MH, and Conditional Zoning Districts detailed in section 3.4.3 any permitted use that exceeds twenty thousand (20,000) square feet in floor area and/or forty thousand (40,000) square feet in land disturbance shall require a special use permit. See standards prescribed in Section 4.5. For existing public elementary and secondary schools, "P" indicates permitted as a principal use.**

~~In all zones except OI-3, OI-4, Conditional Zoning Districts enumerated in 3.4.3, and MH: For all uses except existing public elementary and secondary schools. Permitted as a principal use if floor area of proposed development is less than twenty thousand (20,000) square feet, and disturbed land is less than forty thousand (40,000) square feet; otherwise permitted as a special use. The floor area threshold of twenty thousand (20,000) square feet for special use does not apply to increasing the floor area in existing buildings in the town center 1, 2, and 3 zoning districts, so long as the redevelopment does not increase the building footprint or height (excluding solar panels, HVAC equipment and screening thereof) and does not significantly alter the building's exterior. For existing public elementary and secondary schools, "P" indicates permitted as a principal use.~~

Note: The use groups established in the 2nd column of Table 3.7-1 are used to determine whether a site plan is needed for a change in use (see Section 4.7.1(f), and the applicability of buffers (see Section 5.6.6, Schedule of Required Buffers)."

**Section 3. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.11.3.4. Permitted Use Table is revised to read as follows:**

*3.11.3.4. Permitted Use Table.*

Uses permitted by subdistrict are shown below. Broad use categories have been established in order to regulate a variety of similar uses and are defined in Section 3.11.3.5. Customary accessory and temporary categories, as determined by the town manager, are permitted in the Form Districts, including, but not limited to, home occupations, food trucks and trailers, and outdoor seasonal sales, subject to issuance of a Zoning Compliance Permit.

PERMITTED USES	WR-3	WR-7	WX-5	WX-7	Def./Stds.
<b>Residential Uses</b>					
Household living, as listed below:					Sec. 3.11.3.5.A
Detached living	—	—	—	—	Sec. 3.11.3.5.A.1.a

<b>PERMITTED USES</b>	<b>WR-3</b>	<b>WR-7</b>	<b>WX-5</b>	<b>WX-7</b>	<b>Def./Std.</b>
Attached living	P	P	L	L	Sec. 3.11.3.5.A.1.b
Multifamily living	P	P	L	L	Sec. 3.11.3.5.A.1.c
Group living	—	P	L	L	Sec. 3.11.3.5.A.2
Social service living	—	—	<del>S-S<sup>M</sup></del>	<del>S-S<sup>M</sup></del>	Sec. 3.11.3.5.A.3
Short-Term Rental, Primary Residence	P	P	P	P	Sec. 3.11.3.5.A.5
Short-Term Rental, Dedicated	P	P	P	P	Sec. 3.11.3.5.A.5
<b>Public Uses</b>					
Civic/Place of Worship	P	P	P	P	Sec. 3.11.3.5.B.1
Parks & open space	P	P	P	P	Sec. 3.11.3.5.B.2
Utilities, minor	P	P	P	P	Sec. 3.11.3.5.B.3
Utilities, major	<del>S-S<sup>M</sup></del>	<del>S-S<sup>M</sup></del>	<del>S-S<sup>M</sup></del>	<del>S-S<sup>M</sup></del>	Sec. 3.11.3.5.B.4
<b>Commercial Uses</b>					
Bank, except as listed below:	—	—	P	P	
Drive-thru	—	—	<del>S-S<sub>m</sub></del>	<del>S-S<sub>m</sub></del>	Sec. 3.11.4.1.F
Commercial parking	—	—	<del>S-S<sup>M</sup></del>	<del>S-S<sup>M</sup></del>	Sec. 3.11.3.5.C.1
Day care	—	—	P	P	Sec. 3.11.3.5.C.2
Indoor recreation	—	—	P	P	Sec. 3.11.3.5.C.3
Medical	—	—	P	P	Sec. 3.11.3.5.C.4
Office	—	—	P	P	Sec. 3.11.3.5.C.5
Outdoor recreation	—	—	—	—	Sec. 3.11.3.5.C.6
Overnight lodging	—	—	P	P	Sec. 3.11.3.5.C.7
Personal service	—	—	P	P	Sec. 3.11.3.5.C.8

<b>PERMITTED USES</b>	<b>WR-3</b>	<b>WR-7</b>	<b>WX-5</b>	<b>WX-7</b>	<b>Def./Stds.</b>
Restaurant/bar, except as listed below:	—	—	P	P	Sec. 3.11.3.5.C.9
Drive-thru	—	—	<del>S-S<sub>m</sub></del>	<del>S-S<sub>m</sub></del>	Sec. 3.11.4.1.F
Retail sales, except as listed below:	—	—	P	P	Sec. 3.11.3.5.C.10
Drive-thru	—	—	<del>S-S<sub>m</sub></del>	<del>S-S<sub>m</sub></del>	Sec. 3.11.4.1.F
Fuel sales	—	—	P	P	Sec. 3.11.3.5.C.10.a
Vehicle sales/service	—	—	P	P	Sec. 3.11.3.5.C.11
<b>Industrial Uses</b>					
Light industrial	—	—	—	—	Sec. 3.11.3.5.D.1
Self-service storage	—	—	—	—	Sec. 3.11.3.5.D.2
Warehouse & distribution	—	—	—	—	Sec. 3.11.3.5.D.3
Waste-related service	—	—	—	—	Sec. 3.11.3.5.D.4
Heavy industrial	—	—	—	—	Sec. 3.11.3.5.D.5
<i>Open Uses</i>					
Agriculture, except as listed below:	—	—	—	—	Sec. 3.11.3.5.E.1
Community garden	P	P	P	P	Sec. 3.11.3.5.E.1.a
Resource extraction	—	—	—	—	Sec. 3.11.3.5.E.2

**KEY:**

P = Use permitted under any of the following circumstances:

1. Expansion of an existing public elementary or secondary school
2. Enhanced Development Option conditions are met as specified in Section 3.11.1.2.C
3. Floor area of proposed development is less than twenty thousand (20,000) square feet, and disturbed land is less than forty thousand (40,000) square feet

Otherwise, permitted following Town Council approval of Special Use Permit.



– = Use not permitted

S<sup>M</sup> = Use permitted following Town Council approval of Special Use Permit

**S<sub>m</sub> = Use permitted following Board of adjustment approval of Special Use Permit**

L = Limited use (refer to section 3.11.3.5.A.4.)

**Section 4. Article 4. Procedures, Section 4.3. Concept Plan Review is revised to read as follows:**

**“4.3. Concept plan review.**

Purpose statement: It is the intent of the site analysis data and conceptual development plan process to provide an opportunity for the town council, town manager, the **community design planning** commission and citizens to review and evaluate the impact of a major development proposal on the character of the area in which it is proposed to be located. This process is intended to take into consideration the general form of the land before and after development as well as the spatial relationships of the proposed structures, open spaces, landscaped areas, and general access and circulation patterns as they relate to the proposed development and the surrounding area.

*4.3.1 Applicability.*

(a) *Proposals subject to **concept plan** review, ~~by community design commission.~~*

This section applies to any:

- (1) Special use permit or a special use permit modification; or
- (2) Master land use plan or a master land use plan modification; or
- (3) Major subdivisions; or
- (4) Conditional zoning, except for the light-industrial conditional zoning district (LI-CZD) and the residential-community priority-conditional zoning district (R-CP-CZD).

**(b) Proposals subject to review by town council.**

**(1) Those applications that meet any of the minimum thresholds established in subsections (1) or (2), below, shall require town council review as provided in section 4.3.2, below:**

<b><u>Thresholds (minimum)</u></b>	<b><u>TC-1, TC-2, TC-3 zoning districts</u></b>	<b><u>All other zoning districts</u></b>
<b><u>Land area</u></b>	<b><u>15,000 square feet</u></b>	<b><u>5 acres</u></b>
<b><u>Floor area</u></b>	<b><u>20,000 square feet</u></b>	<b><u>100,000 square feet</u></b>
<b><u>Dwelling units</u></b>	<b><u>35 dwelling units</u></b>	<b><u>50 dwelling units</u></b>

**(2) If an application does not meet the thresholds established in subsection (1), above, the applicant may request review by the town council. Such request shall be filed at least fifteen (15) days in advance of a regular meeting of the town council.**

**(3) Proposals subject to review by Town Council shall not be subject to concept plan review by the Planning Commission.**

**(c) Proposals subject to review by historic district commission.**

**This section applies to any:**

- (1) Proposals located in a historic district; and**
- (2) Changes of use that also require that also require a Certificate of Appropriateness (COA) per [Section 3.6.2\(b\)](#)<sup>1</sup>.**

**(d) Proposals subject to review by planning commission.**

**This section applies to any of the following if they do not independently meet the thresholds for Council review as specified in (a)(1).**

**~~(b) Proposals subject to additional review by town council.~~**

- ~~(1) Those applications listed in subsection 4.3.1.(a) that meet any of the minimum thresholds established in subsections (1) or (2), below, shall require town council review as provided in section 4.3.2, below, in addition to community design commission review:~~**

<b><del>Thresholds (minimum)</del></b>	<b><del>TC 1, TC 2, TC 3 zoning districts</del></b>	<b><del>All other zoning districts</del></b>
<b><del>Land area</del></b>	<b><del>15,000 square feet</del></b>	<b><del>5 acres</del></b>
<b><del>Floor area</del></b>	<b><del>20,000 square feet</del></b>	<b><del>100,000 square feet</del></b>
<b><del>Dwelling units</del></b>	<b><del>35 dwelling units</del></b>	<b><del>50 dwelling units</del></b>

- ~~(2) If an application does not meet the thresholds established in subsection (1), above, the applicant may request review by the town council. The town council may determine to review the application, or it may decline to review the application. Such request shall be filed at least fifteen (15) days in advance of a regular meeting of the town council. The town council's determination shall be rendered at its next regular meeting after receiving a complete request for town council review.~~**

**4.3.2 Procedures.**

- (a) Application submittal requirements.** Applications for ~~site analysis data and conceptual development concept~~ plan review shall be filed with the town manager. The town manager shall prescribe the form(s) on which information shall be submitted. Forms shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner in connection with the plan. If the applicant or property owner is an entity other than an individual, the plans shall also include detailed information regarding the principals of the entity. Forms shall include the name of the project principals and indicate the project principals development experience. The town manager shall prescribe any other material that may reasonably be required to determine compliance with this appendix and relationship to the town's comprehensive plan with sufficient copies for necessary referrals and records.

<sup>1</sup>[https://library.municode.com/nc/chapel\\_hill/codes/code\\_of\\_ordinances/425892?nodeId=CO\\_APXALAUSMA\\_ART\\_3ZODIUSDIST\\_3.6OVDI](https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances/425892?nodeId=CO_APXALAUSMA_ART_3ZODIUSDIST_3.6OVDI)

No application shall be accepted by the town manager unless it complies with such submittal requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the applications.

- (b) *Time frame for action on concept plans.* Upon receipt of a complete concept plan, the town manager shall forward all information submitted by the applicant for review by the ~~community design planning~~ commission, ~~and historic district commission, or town council, as applicable,~~ within thirty (30) days.
- (c) *Aspects of review.* The town council, ~~and community design planning~~ commission, ~~and historic district commission,~~ in examining development applications, are to consider the various aspects of design, with special emphasis on whether the proposed development is consistent with the town's design guidelines and the goals and objectives of the town's comprehensive plan.
- (d) ***Community design Planning commission review.***
  - (1) The ~~community design planning~~ commission shall review the application and shall submit its written recommendation to the applicant ~~and town council, if applicable.~~
  - (2) The ~~community design planning~~ commission shall consider public comments and shall base its recommendation on its determination of whether or not the application conforms to applicable provisions of this appendix.
  - (3) The ~~community design planning~~ commission shall provide its recommendations to the applicant within thirty-five (35) days of the meeting at which a complete application is considered, or within such further time consented to in writing by the applicant or by town council resolution. If the ~~community design planning~~ commission fails to prepare its recommendation to the applicant within this time limit, or extensions thereof, that agency shall be deemed to recommend the application without conditions.

***(e) Historic district commission review, as applicable.***

- (1) The historic district commission shall review the application and shall submit its written recommendation to the applicant.**
- (2) The historic district commission shall consider public comments and shall base its recommendation on its determination of whether or not the application conforms to applicable provisions of this appendix.**
- (3) The historic district commission shall provide its recommendations to the applicant within thirty-five (35) days of the meeting at which a complete application is considered, or within such further time consented to in writing by the applicant or by town council resolution. If the historic district commission fails to prepare its recommendation to the applicant within this time limit, or extensions thereof, that agency shall be deemed to recommend the application without conditions.**

***(e) (f) Town council review.***

- (1) ~~After receiving the recommendations of the community design commission, the~~ **The** town council shall review the application in the same manner as prescribed in subsection (d), above. The town council may appoint a subcommittee to review the application. The mayor shall determine the membership of the subcommittee.

~~(2) The town council may conduct its review concurrent with the community design commission.~~

~~(3)~~ (2) After considering public comments ~~and the recommendations of the community design commission~~, the town council shall adopt a resolution transmitting its preliminary recommendations to the applicant.

#### 4.3.3 Criteria

The concept plan is a preliminary step toward the preparation of a formal development plan. All concept plans should demonstrate a high quality of overall site design. The design and construction of site elements should include appropriate descriptions and explanations of the relationship and balance among site elements, the relationship of the development to natural features, neighboring developments and undeveloped land, access and circulation systems, retention of natural vegetation, minimal alteration of natural topography, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring developments and streets, landscaping, preservation or enhancement of vistas, and mitigation of traffic impacts.”

### **Section 5. Article 4. Procedures, Section 4.5 is revised to read as follows:**

#### **“4.5. Special use permits.**

Purpose statement: It is the intent of this article to recognize and permit certain uses and developments that require special review, and to provide standards by which applications for permits for such uses and developments shall be evaluated.

It is the intent of this appendix that all special use permits shall demonstrate a high quality of overall site and building design. The criteria and procedures established in this section ensure that the design and construction of site elements include appropriate consideration of the relationship and balance among site elements, the relationship of the development to natural features, neighboring developments, and access and circulation systems, retention of natural vegetation, minimal alteration of natural topography, mitigation of erosion and sedimentation, mitigation of stormwater drainage and flooding, arrangement and orientation of buildings and amenities in relation to each other and to neighboring developments and streets, landscaping, preservation or enhancement of vistas, and mitigation of traffic impacts.

It is further intended that special use permits be required for the following types of developments:

- a) Special uses that, because of their inherent nature, extent, and external effects, require special care in the control of their location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare; and
- b) Planned developments that require special review in order to provide the regulatory flexibility and performance criteria necessary to permit a creative approach to the development of land that will (i) accomplish a more desirable environment than would be possible through the strict application of the generally applicable requirements of this chapter; (ii) provide for an efficient use of land and arrangement of land uses, buildings, circulation systems, and utilities; (iii) promote an improved level of amenities; and (iv) provide an environment of stable character compatible with surrounding areas; and

**Uses that requires special use permits vary in size, characteristic, impacts, and relationship to the health, safety, and welfare of the community. This section establishes two types of special use permits ("minor" and "major") that require different processes, as outlined in 4.5.3.**

**a) Minor Special Use Permit**

- (1) Those uses that do not request a modification or exception to regulations in this appendix.**
- (2) These uses shall be reviewed and approved by the Board of Adjustment.**

**b) Major Special Use Permits**

- (1) Those uses that request a modification exception to regulations in this appendix.**
- (2) Any permitted use that exceeds twenty thousand (20,000) square feet of floor area and/or forty thousand (40,000) square feet of land disturbance, except as follows:**

**Exceptions:**

- (A) Existing public elementary and secondary schools**
  - (B) Uses in the OI-3, OI-4, and MH zoning districts not otherwise listed as special uses**
  - (C) Uses in Conditional Zoning Districts as detailed in [4.4.7](#)<sup>2</sup>**
  - (D) Any proposal to increase the floor area in existing buildings in the Town Center (TC) – 1,2, and 3 zoning districts so long as the redevelopment does not increase the building footprint or height (excluding solar panels, HVAC equipment, and screening thereof) and does not significantly alter the building's appearance.**
- (3) These applications shall be reviewed and approved by the Town Council.**
  - (4) Unless otherwise stated, all special use permit applications will be deemed to be major special use permits.**

**Section 6. Article 4. Procedures, Section 4.5.2 Standards and Findings of Fact, Subsection (a) is revised to read as follows:**

*"4.5.2 Standards and Findings of Fact.*

- (a) No special use permit shall be recommended by the town manager ~~or planning commission~~ for approval and no special use permit shall be approved by the **board of adjustment or** town council unless each of the following findings is made concerning the proposed special use or planned development:**
  - (1) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;**

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<sup>2</sup>[https://library.municode.com/nc/chapel\\_hill/codes/code\\_of\\_ordinances/425892?nodeId=CO\\_APXALOUSMA\\_ART\\_4PR\\_4.4ZOAM](https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances/425892?nodeId=CO_APXALOUSMA_ART_4PR_4.4ZOAM)

- (2) That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of articles 3 and 5, the applicable specific standards contained in the supplemental use regulations (article 6), and with all other applicable regulations;
- (3) That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
- (4) That the use or development conforms with the general plans for the physical development of the town as embodied in this appendix and in the comprehensive plan."

**Section 7. Article 4. Procedures, Section 4.5.3 Procedures for Approval of Special Use Permits is revised to read as follows:**

*"4.5.3 Procedures for Approval of Special Use Permits.*

(a) *Application submittal requirements.*

- (1) Applications for special use permits shall be filed with the town manager.
- (2) The town manager shall prescribe the form(s) on which applications are made. Applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner in connection with the application. If the applicant or property owner is an entity other than an individual, the application shall also include detailed information regarding the principals of the entity. The town manager shall prescribe any other material that may reasonably be required to determine compliance with this appendix, with sufficient copies for necessary referrals and records.
- (3) Special use permit and special use permit major modification applications shall identify all proposed utilities providing service to the proposed development, whether on- and off-site, increases in utility capacity or modification of utility service facilities that are requested, the type of utility, and whether service lines are provided above the ground surface or underground.
- (4) No application shall be accepted by the town manager unless it complies with such requirements. Applications that are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(b) *Town manager's analysis.* When he/she accepts an application, the town manager shall cause representatives of the town, and such other agencies or officials as may be appropriate, to determine if it conforms to the comprehensive plan, the provisions of this chapter, and other regulations applicable in the case. In the case of planned developments, such representatives, agencies or officials shall define specifically the modifications of regulations which seem justified in view of the standards set out in section 6.18.

(c) *Preliminary conferences with applicant.*

- (1) The town manager shall notify the applicant, in writing, of the proposal's deficiencies. The town manager shall also notify the applicant of his/her willingness to discuss alternatives to correct those deficiencies.

- (2) If the applicant joins in such discussions, the application may be modified, further discussions may be held, or additional information may be requested by the town manager.

~~(d) **Town manager's report to planning commission.**~~

~~(1) **The town manager shall submit to the planning commission a written analysis of the application based on the findings required in section 4.5.2.**~~

~~(2) **If the applicant does not join in preliminary conferences with the town manager, the town manager shall complete his/her report within twenty-five (25) working days after he/she accepts the application or within such further time consented to in writing by the applicant or established by town council resolution. If the town manager fails to prepare his/her report to the planning commission within this time limit, or extensions thereof, the application shall be submitted to the Planning Commission without the town manager's written analysis of the application.**~~

~~(3) **If the applicant participates in preliminary conferences with the town manager, the town manager shall prepare his/her report to the planning commission when further conferences appear unnecessary. No time limits shall apply to the town manager's review when the applicant joins in preliminary conferences. However, the applicant may require the town manager to submit the application and his/her report to the planning commission whenever the applicant wishes to end discussions.**~~

~~(4) **The town manager shall forward his/her report to the planning commission at its next available regularly scheduled meeting.**~~

~~(e) **Planning commission review. The planning commission shall review the application and the town manager's report and may conduct a preliminary forum to review the application and the town manager's report and to provide comments to the applicant.**~~

~~(f) **(d) Evidentiary hearing.**~~

(1) After receiving the town manager's report or, if applicable, the expiration of the time limit prescribed in subsection 4.5.3.(e)(2), the **decision-making body town council** shall hold an evidentiary hearing on the application at the next available council meeting where evidentiary hearings will be held. Relevant procedures for such evidentiary hearings are as set forth in NCGS 160D-406.

(2) Notice of the date, time, and place of the evidentiary hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing. Such notice of the evidentiary hearing shall also be mailed to the person or entity whose application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town manager shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. For

the purpose of this appendix, properties are "abutting" even if separated by a street, railroad, or other transportation corridor.

- (3) Presentation of Evidence. The applicant, the ~~town council~~ **decision-making body**, and any person who would have standing to appeal the decision under NCGS 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the ~~town council~~ **decision-making body**. All persons who intend to present evidence at the evidentiary hearing shall be sworn.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the standing of a party, may be made to the ~~town council~~ **decision-making body**. The mayor, ~~or chair~~, shall rule on any objections, and the mayor's, ~~or chair's~~, rulings may be appealed to the full ~~board town council~~. These rulings are also subject to judicial review pursuant to NCGS 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

- (4) The applicant shall bear the burden of presenting evidence sufficient to establish that the proposed development will comply with the determinations required in subsection 4.5.2.
- (5) A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

~~(g)~~ **(e)** *Town manager's report to decision-making body town council, as applicable.*

- (1) After completion of the evidentiary hearing, the town manager and town attorney shall review the record of the evidentiary hearing and the town manager shall submit to the ~~town council~~ **decision-making body** an analysis and his/her recommendation for action.
- (2) The town manager shall submit his/her report to the ~~town council~~ **decision-making body** within thirty (30) days after completion of the evidentiary hearing, or within such further time consented to by written notice from the applicant or by ~~town council~~ **decision-making body** resolution.
- (3) If the town manager fails to submit a recommendation to the ~~town council~~ **decision-making body** within this time limit, or extensions thereof, his/her recommendation shall be the same as his/her preliminary recommendation.

~~(h)~~ **(f)** *Board of adjustment or Town town council action, as applicable.*

- (1) The ~~decision-making body town council~~ shall review the record of the evidentiary hearing and the town manager's report and shall act on the application based on the findings required in subsection 4.5.2. All findings shall be based on competent material and substantial evidence presented at the evidentiary hearing.
- (2) Action on the application shall be one of the following: (a) Approval; (b) Approval subject to conditions; or (c) Denial.

~~(i)~~ **(g)** *Effect of denial or withdrawal on subsequent applications. When the ~~decision-making body town council~~ has denied an application or the applicant has withdrawn his/her application by written notice after publication of the evidentiary hearing notice required in subsection 4.5.3.(f), the town manager shall not accept another application for approval of the same or similar special use or planned development, affecting the*



same property or a portion thereof, until twelve (12) months have elapsed from the date of denial or withdrawal, as appropriate.

~~(j)~~ **(h)** *Amended applications.* The applicant shall submit an amended application for review as an original application if he/she proposes, in the town manager's opinion, to substantially amend or modify his/her application after the town manager's review; but no modification(s) agreed to by the applicant as a result of requests or suggestions by the town manager, ~~the planning commission decision-making body, or the town council~~ shall require an amended or original application.

~~(k)~~ **(i)** *Notice of decision and issuance of special use permit.*

- (1) The town manager shall notify the applicant of the **decision-making body's town council's** decision in writing and shall file a copy of it with the town's planning department.
- (2) If the application is approved or approved with conditions, the town manager shall issue the necessary special use permit in accord with the action of the **decision-making body town council**. The applicant shall consent, in writing, to any conditions placed on the Special Use Permit and record such permit in the office of the appropriate county register of deeds.
- (3) The special use permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

~~(l)~~ **(j)** *Appeal of decision.* The **decision-making body's town council's** decision on an application for a special use permit may be appealed to superior court within thirty (30) days of the decision.

~~(m)~~ **(k)** *Final plan approval.*

- (1) The town manager shall not issue a zoning compliance permit for development approved in a special use permit unless and until such special use permit has been recorded and the town manager has approved final plans for the development as a whole, or for any phase thereof. The town manager shall prescribe the form and content of such final plans.
- (2) Approval of final plans shall be based on compliance with all applicable regulations and requirements, including all conditions attached to the special use permit.

~~(n)~~ **(l)** *Issuance of development permits.* After final plan approval, the town manager may issue zoning compliance permits, engineering construction permits, building permits, sign permits, and certificates of occupancy for development approved in a special use permit, or an approved phase thereof, in the manner prescribed in section 4.9, subject to compliance with the approved final plans and following additional requirements:

- (1) Prior to issuance of a building permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations and a site lighting plan shall be **submitted to and approved reviewed** by the community design commission. ~~This subdivision (n)(1) shall not apply to single family and two family structures approved by a special use permit unless voluntarily consented to by the owners of all properties included in such an application.~~

**Exceptions:**

- (A) **This section (I)(1) shall not apply to single-family and two-family structures approved by a special use permit unless voluntarily consented to by the owners of all properties included in such an application.**
  - (B) **This section (I)(1) shall not apply to minor special use permits reviewed and approved by the board of adjustment.**
- (2) Prior to issuance of any zoning compliance permit for development approved in a special use permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the town manager."

**Section 8. Article 4. Procedures, Section 4.5.4 Modification of Special Use Permits, subsection (b) is revised to read as follows:**

"(b) Any change requiring evidentiary support in addition to that presented at an evidentiary hearing on applications for the original special use permit or subsequent modifications of special use permit shall constitute a major modification of the special use permit. Before making a determination as to whether a proposed action is a minor modification or a major modification, the town manager shall review the record of the proceedings on the original application for the special use permit and subsequent applications for modifications of the special use permit. ~~The following shall constitute a major modification of the special use permit:~~

**(1) The following shall constitute a major modification of the special use permit:**

- ~~(1A)~~ A change in the boundaries of the site approved by the **decision-making body town council**.
- ~~(2B)~~ A change from the use approved by the **decision-making body town council**.
- ~~(3C)~~ A change in the density of the overall development.
- ~~(4D)~~ An increase of five (5) percent or more in the floor area approved by the **decision-making body town council**, unless proposed addition is two thousand, five hundred (2,500) square feet of floor area or less, whether such addition is proposed at one (1) time or over an extended period of time **and does not exceed the thresholds required for town council approval in 4.5.**
- ~~(5E)~~ An increase of five (5) percent or more in the number of parking spaces approved by the **town council decision-making body**, whether such addition is proposed at one (1) time or over an extended period of time.
- ~~(6F)~~ Substantial changes in the location of principal and/or accessory structures approved by the **town council decision-making body**.
- ~~(7G)~~ Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the **town council decision-making body**.

- (~~8H~~) Substantial changes in pedestrian and bicycle or vehicular access or circulation approved by the ~~town council decision-making body~~. Examples of substantial changes include, but are not limited to:
- ~~Ai.~~ A change in trip distribution occurs that involves more than five (5) percent of all projected trips; or
  - ~~Bii.~~ The change results in a reduction in the level of service (LOS) of a street link or intersection within one-quarter (¼) of a mile from the boundaries of the proposed development.
- (~~9I~~) Substantial change in the amount or location of landscape screens approved by the ~~town council decision-making body~~ shall constitute a major modification.
- (~~102~~) The following shall constitute a minor modification of the special use permit:
- (a) Changes to a site that constitute a major modification of the special use permit under the above subsections 1-9, and are necessary to address an imminent and substantial threat to public health or safety, as determined by the town manager, such as the installation of stormwater pipes to relieve a documented flooding issue or the removal of structures from the floodplain, shall be considered minor modifications, provided the changes do not:
    - (i) Increase the intensity or density of the overall development, including increases to floor area or impervious surface, or allowing a change to the uses permitted, or
    - (ii) Make nonconforming or increase a nonconformity with the development's existing special use permit or other standards of this Appendix.
  - (b) Prior to the issuance of a Zoning Compliance Permit for a minor modification under this subsection 10, the following shall occur:
    - (i) A public information meeting followed by a courtesy review by the Community Design Commission on the same day, and
    - (ii) Notice of such meetings shall be mailed to owners of property within five hundred (500) feet at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the meetings, and
    - (iii) The ~~Community Design Commission decision-making body~~ shall forward comments to the town manager within fifteen (15) days from the date of the meeting at which it first considers the proposed change, after which the manager shall make a determination regarding a project's eligibility under this subsection 9, and
    - (iv) The manager shall inform the council of each manager's determination made pursuant to this subsection."

**Article 9. Procedures, Section 4.5.5 Expiration and Revocation of Special Use Permit Approvals.**

*4.5.5 Expiration and Revocation of Special Use Permit Approvals.*

- (a) *Special use permit binding on land.* A special use permit or modification of special use permit shall run with the land covered by the permit or modification. Once construction authorized by a special use permit or modification of special use permit is started, no development other than that authorized by the permit or modification shall be approved on that land unless the permit or modification is first modified in accord with subsection 4.5.4, or voided or revoked in accord with the provisions of this section.
- (b) *Starting time limit.* If the use, construction, or activity authorized by ~~town council~~ **decision-making body's** approval of an application for a special use permit or modification of special use permit is not substantially commenced 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 substantially commenced. The town manager may grant 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 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 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 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 of 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 the revised completion date, request additional extensions of the completion time limit from the ~~town council~~ **decision-making body**. The ~~town council~~ **decision-making body** may grant extensions of the time limit if it makes the determinations required by (c)(1)(A) through (c)(1)(C), above.
- (d) *Abandonment of special use permit.*
- (1) On request by the holder of a special use permit or modification of special use permit, the ~~town council~~ **decision-making body** shall approve the abandonment of the permit or modification if it determines that:

- A. No construction or activity authorized by the permit has been started and the starting time limit has not yet expired; or
  - B. The development or use authorized by the permit or modification no longer requires a special use permit, and all conditions of the special use permit have been satisfied; ~~or~~
  - C. **The applicant is pursuing a conditional zoning district per Section 4.4.7<sup>3</sup>. The applicant shall abandon the Special Use Permit at the time of the Conditional Zoning District entitlement.**
    - (2) The permit holder shall submit a signed affidavit clearly stating the holder's intent to abandon the permit or modification.
    - (3) Any abandonment approved by the town council shall not become effective until the affidavit of abandonment is recorded in the office of the appropriate county register of deeds.
- (e) *Cessation of use.* If the use(s) authorized by a special use permit or modification of special use permit ceases for a continuous period of twelve (12) months, the permit or modification shall automatically become void.
- (f) *Revocation of special use permit.* If any conditions of a special use permit or major modification of special use permit, including completion time limits, or requirements of this appendix applicable to the permit or modification are violated, the ~~town council~~ **decision-making body** may revoke or refuse to extend the permit or major modification. Consideration of revocation of a special use permit or a special use permit major modification shall follow the procedures in 4.5.3. The ~~town council~~ **decision-making body** may reinstate a revoked special use permit or major modification of special use permit if it determines that: a) the holder of the revoked permit or major modification submitted a request for reinstatement to the town manager within ninety (90) days of the revocation; b) the violations that were the cause of the revocation have been corrected; and c) the development fully complies with all conditions of the permit or major modification and all applicable requirements of this appendix. On request by the holder of a special use permit or major modification of special use permit, the town council may revoke the permit or major modification if it determines that:
- (1) Construction authorized by the permit or major modification has been started and the completion time limit has not yet expired; and
  - (2) The request is made in conjunction with an application for approval of a development other than that authorized by the permit or major modification; and
  - (3) The proposed development as approved by town council incorporates adequate consideration of the site's already disturbed land area in its design and previous commitments made under the special use process.

**Section 10. Article 8. Administrative Mechanism, Section 8.2 Planning Commission, Subsection 8.2.4 Powers of the Commission is revised to read as follows:**

*"8.2.4. Powers of the commission.*

The planning commission shall have the following powers and duties:

- (a) To develop a Comprehensive Plan for the orderly growth and development of Chapel Hill and its environs. Such plan shall set forth goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community;
- (b) To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the general development of the community;
- (c) To undertake, on its own or in collaboration with any other board, commission, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
- (d) To cooperate with other commissions, boards, or agencies of the town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the board's purview or of mutual interest;
- (e) To make studies of the general development characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of development for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
- (f) To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the town's jurisdiction, and to review such plans as to conformity with the Comprehensive Plan to make recommendations regarding such plans to the appropriate agency or body, or to the council. The board shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the council;
- (g) To formulate and recommend to the council the adoption or amendment of ordinances that, in the opinion of the board will serve to promote the orderly development of the community in accord with the Comprehensive Plan;
- (h) To direct the attention of appropriate town officials to needed enforcement of any ordinance that may affect the general development of the community;
- (i) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
- (j) To promote public interest in an understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the board, will promote the orderly development of the community in accord with the Comprehensive Plan;
- (k) To request the council to hold administrative, legislative, or evidentiary hearings on matters within the purview of the commission;
- (l) To conduct public meetings, giving reasonable notice to the public thereof;
- (m) To review and make recommendations to the council on proposed plats of land subdivision, applications for conditional zoning districts, and proposed amendments to Land Use Management Ordinance;
- (n) To review site plans for conformity with land development regulations, in accord with section 4.7 of this appendix;

- (o) To review minor subdivision for conformity with land development regulations in accord with subsection 4.6.4;
- (p) To review concept plans, and offer recommendations to the applicant, in accord with section 4.3.**
- ~~(p)~~ **(q)** To recommend to the council suitable arrangement for the procurement or provision of staff or technical services for the commission;
- ~~(q)~~ **(r)** To establish an advisory council or other committees within its membership as it may deem necessary;
- ~~(r)~~ **(s)** To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority; and
- ~~(s)~~ **(t)** To exercise such other powers and to perform such other duties as are authorized or required elsewhere in this appendix, the N.C. General Statutes, or by the council."

**Section 11. Article 8. Administrative Mechanism, Section 8.3 Board of Adjustment, Subsection 8.3.4 Powers of the Board is revised to read as follows:**

*"8.3.4. Powers of the Board.*

The board of adjustment shall have the following powers:

- (a) To hear and decide appeals from any decision made by the town manager in the performance of his or her duties in the enforcement of this appendix;
- (b) To hear and decide appeals from any decision of the planning commission, historic district commission, or community design commission;
- (c) To hear and decide requests for variances from the dimensional regulations of this appendix, in accord with section 4.12 of this appendix;
- (d) To hear and decide minor special use permits;**
- ~~(d)~~ **(e)** To make determinations of the zoning atlas, including disputed questions about zoning district boundary lines or lot lines, and similar questions as required by the appendix, and as they arise in the administration of this appendix;
- ~~(e)~~ **(f)** To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
- ~~(f)~~ **(g)** To request the council to hold public hearings on matters within the purview of the board; and
- ~~(g)~~ **(h)** To hear and decide any other matter as required by the provisions of this appendix and the Town Code of Ordinances."

**Section 12. Article 8. Administrative Mechanism, Section 8.4 Historic District Commission, Subsection 8.4.6 Powers of the Commission is revised to read as follows:**

*"8.4.6. Powers of the Commission.*

The commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this appendix

and in Chapter 160D, Article 9, Part 4 of the N.C. General Statutes, including but not limited to the following:

- (a) To recommend to the planning commission and council areas for designation by ordinance as historic districts;
- (b) To recommend to the planning commission and council that designation of any areas as a historic district be revoked or removed;
- (c) To recommend to the planning commission, council, and the State of North Carolina structures, sites, objects, or districts worthy of local, state, or national historical recognition;
- (d) To propose to the council amendments to this chapter or to any other ordinance relating to the historic district, and to propose new ordinances or laws relating to the historic district or to a program for the development of the historical resources of the Chapel Hill community;
- (e) To request the council to hold public hearings on matters within the purview of the commission;
- (f) To hear and decide applications for certificates of appropriateness in accord with [article 3](#) of this appendix; (Ord. No. 2004-02-23/O-2)
- (g) To establish principles and standards under which the town manager shall approve applications for certificates of appropriateness covering minor modifications on behalf of the commission;
- (h) To undertake, on its own or in collaboration with any other commission, board, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
- (i) To cooperate with other commissions, boards, or agencies of the town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the commission's purview or of mutual interest;
- (j) To participate in negotiations with owners and other parties in an effort to find means of preserving historic buildings scheduled for demolition;
- (k) To provide advice to owners of property located within the historic district concerning the treatment of the historical and visual characteristics of their properties, such as color schemes, gardens and landscape features, and minor decorative elements;
- (l) To publish information or otherwise inform owners of property located within the historic district about any matters pertinent to the commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (m) To contract, in accord with established town policies and procedures, for services or funds from agencies or departments of the State of North Carolina and the United States government;
- (n) To accept funds granted to the commission from private or non-profit organizations;
- (o) To organize itself and conduct its business by whatever legal means it deems proper;
- (p) To report violations of this appendix or related ordinances to the local official responsible for the enforcement thereof;



(q) To exercise, within the historic district, all the powers and duties of the Chapel Hill Community Design Commission;

**(r) To review concept plans, and offer recommendations to the applicant.**

~~(r)~~ **(s)** To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this appendix, the N.C. General Statutes, or by the council.”

**Section 13. Article 8. Administrative Mechanism, Section 8.5 Community Design Commission, Subsection 8.4.5 Powers of the Commission is revised to read as follows:**

*"8.5.5. Powers of the Commission.*

The commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this appendix, in Chapter 160D, Article 9, Part 5 of the N.C. General Statutes, and in Chapter 278 of the N.C. Session Laws of 1965, including but not limited to the following:

~~**(a) To review site analysis data and conceptual development plans, and offer recommendations to the applicant.**~~

~~(a)~~ **(b)** To initiate, promote, and assist in the implementation of programs of general community beautification in the Chapel Hill community;

~~(b)~~ **(e)** To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the appearance of the community;

~~(c)~~ **(d)** To provide leadership and guidance in matters of community design and appearance to individuals and public or private agencies and organizations;

~~(d)~~ **(e)** To make studies of the visual characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;

~~(e)~~ **(f)** To prepare both general and specific plans for the improved appearance of the entire community or any portion thereof, including private as well as public property. Such plans shall set forth desirable standards and goals for the aesthetic enhancement of the community or any portion thereof, including public ways and areas, open spaces, and public and private buildings and projects;

~~(f)~~ **(g)** To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the town's jurisdiction, and to review such plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or body, or to the council. The commission shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the council;

~~(g)~~ **(h)** To formulate and recommend to the planning commission and council the adoption or amendment of ordinances that, in the opinion of the commission, will serve to enhance the appearance of the community and/or strengthen design standards for development within the town's jurisdiction;

- (h)(i)** To direct the attention of appropriate town officials to needed enforcement of any ordinance that may affect the appearance of the community;
- (i)(j)** To seek voluntary adherence to the standards and policies of its plans;
- (j)(k)** To enter, at reasonable times, upon private lands and make examinations or surveys as necessary in the performance of its official duties;
- (k)(l)** To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the commission, will advance the cause of improved community appearance;
- (l)(m)** To conduct public meetings and hearings, giving reasonable notice to the public thereof;
- (m)(n)** To conduct an annual meeting at which the programs, problems, and policies of the commission shall be presented, and at which the public at large shall be invited to express itself on matters relating to the appearance and adopted design standards of the community;
- (n)(o)** To recommend to the council suitable arrangement for the procurement or provision of staff or technical services for the commission;
- (o)(p)** To establish an advisory council or other committees within its membership as it may deem necessary;
- (p)(q)** To accept funds from private agencies, foundations, organizations, individuals, the state or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority;
- (q)(r)** To review all schematic building designs for special use permits or special use permit major modifications, and forward comments and recommendations for consideration by the applicant;
- (r)(s)** To review lighting plans and building elevations filed as part of an application for development;
- (s)(t)** To review alternative landscape bufferyards in accordance with subsection 5.6.6 of this appendix; and
- (t)(u)** To hear and decide applications for certificates of appropriateness in the Blue Hill District in accord with Section 3.11 of this appendix."

**Section 14. Amend Appendix A- Definitions to include the following:**

*Special use permit:* A permit issued by the **decision-making body council** authorizing development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits.

**Section 15.** This ordinance is effective upon enactment.

This the 29th day of November, 2023.