



OPEN THE PUBLIC HEARING: LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT – PROPOSED CHANGES TO ARTICLES 3 AND 4 PERTAINING TO CONDITIONAL ZONING

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
Judy Johnson, Interim Director
Kari Grace, Senior Planner

<p>AMENDMENT REQUEST</p> <p>Amend portions of Articles 3 and 4 of the Land Use Management Ordinance (LUMO) to allow additional uses as part of conditional zoning and make changes to concept plans related to conditional zoning requests.</p>	<p>PUBLIC HEARING DATE</p> <p>November 13, 2019</p>	<p>APPLICANT</p> <p>Planning Department</p>
<p>STAFF’S RECOMMENDATION</p> <p>That the Council open the public hearing regarding the Land Use Management Ordinance text amendment, receive public comment, and continue the public hearing to January 8, 2020.</p>		
<p>PROCESS</p> <p>The Council must consider whether one or more of the three findings for enactment of the Land Use Management Ordinance Text Amendment:</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> <ul style="list-style-type: none"> • The proposed changes to the Ordinance are to provide consistency regarding Concept Plans and to allow multi-family development as conditional zoning applications. • The Planning Commission recommended that the Council enact the proposed amendments. 	
<p>TEXT AMENDMENT OVERVIEW</p> <p>On November 29, 2017, the Council adopted amendments¹ to the zoning amendment procedures and conditional district text of the LUMO to allow conditional zoning. On May 1, 2019, the Council adopted an administrative procedural change² to the conditional zoning procedures to allow concurrent consideration of land use plan amendments proposed alongside conditional zoning applications.</p> <p>Current concept plan procedures for conditional zoning are inconsistent with concept plan procedures for special use permits. At the time of concept plan, applicants may not know whether or not they will submit future applications as a special use permit or conditional zoning. Different concept plan thresholds create confusion later. The proposed text amendment seeks to make the thresholds for both application types the same.</p> <p>Additionally, there is currently not an application path that would allow multifamily development without a special use permit. The proposed text amendment would allow multifamily development with an approved conditional zoning in the Residential-6 (R-6) district.</p>		
<p>ATTACHMENTS</p>	<ol style="list-style-type: none"> 1. Text Amendment Summary 2. Draft Staff Presentation 3. Resolution of Consistency (for proposed Land Use Management Ordinance amendment) 4. Ordinance A (Enactment of Land Use Management Text Amendment Proposal) 5. Resolution B (Deny Land Use Management Text Amendment Proposal) 6. Planning Commission Recommendation 	

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

² <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=3931188&GUID=F1CD29B8-F6D3-4DC6-8573-EFFD72309476>

- (3) Major subdivisions; or
 - (4) Conditional zoning, except for the light-industrial conditional zoning district (LI-CZD).
- (b) *Proposals subject to additional review by town council.*
- (1) ~~All conditional zoning applications except for the light-industrial conditional zoning district (LI-CZD),~~ and Those applications listed in subsection 4.3.1.(a) that meets 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:

3. Section 4.6.3 Classification of Subdivision – changes to section to include conditional zoning applications

- (a) *Minor subdivision—Administrative review.*
- (1) The minor subdivision—administrative review approval process is a one-step procedure involving town manager approval of a final plat. A "minor subdivision—administrative review" includes any subdivision pursuant to an approved zoning compliance permit for a two-family or multifamily townhouse development, an approved special use permit for a planned development, an approved conditional zoning, or an approved commercial subdivision.

4. Section 4.6.4.1. Procedures for Approval of Minor Subdivisions— changes to section to include conditional zoning applications

- (b) *Action on application.*
- (1) When he/she accepts an application, the town manager shall evaluate the plat for compliance with all applicable regulations, including any applicable conditions of an approved zoning compliance permit, special use permit, or conditional zoning. He/she shall take action on an application based solely on his/her findings as to compliance with applicable regulations and conditions. He/she shall:

5. Section 4.6.4.2 Procedures for approval of minor subdivisions—Planning commission review -changes to section to include conditional zoning applications

- (b) *Action on application.*
- (1) When he/she accepts an application, the town manager shall evaluate the plat for compliance with all applicable regulations, including any applicable conditions of an approved zoning compliance permit, special use permit, or conditional zoning. The town manager shall forward his/her report to the planning commission with a recommendation.

6. 4.7.1. Applicability - changes to section to include conditional zoning applications

- (d) Any development pursuant to an approved certificate of appropriateness, conditional zoning, or special use permit including special use permits that are no longer necessary and have therefore been abandoned, provided the town manager finds that no modifications are proposed to the plans and conditions in the area have not changed significantly;

7. Section 4.9. - Zoning compliance permit - changes to section to include conditional zoning applications

- (b) *Action on the application.* The town manager shall take final action on the application. Final action on an application shall be based solely on findings as to compliance with all applicable

provisions of this chapter, including all applicable conditions of an approved special use permit, **conditional zoning**, major or minor subdivision, site plan review, or certificate of appropriateness, and shall be one of the following:

(e) *Modification of zoning compliance permits.*

- (1) The town manager may approve a modification of zoning compliance permit for changes to plans approved under site plan review, special use permit, **conditional zoning**, major or minor subdivision, as long as such changes continue to comply with the approving action and all other applicable requirements. The town manager shall not have the authority to approve a modification for any substantial changes to plans approved under site plan review unless such changes are specifically required by a condition of approval.