



CLOSE THE LEGISLATIVE HEARING AND CONSIDER: LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT - SECTION 3.6 REGARDING HISTORIC DISTRICT COMMISSION PROCEDURES AND TO PROVIDE DESIGN-MAKING CLARITY

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
Colleen Willger, Director
Judy Johnson, Assistant Director
Anya Grahn, Principal Planner

AMENDMENT REQUEST	DATE
Amend the Historic District Commission (HDC) sections of the Land Use Management Ordinance (LUMO) to improve HDC procedures and provide clarity to decisions of the HDC.	November 17, 2021

TOWN MANAGER’S RECOMMENDATION

I have reviewed and discussed key issues with Town staff. Based on the information in the record to date, I believe the Council could make the findings required to approve the proposal, and therefore should close the Legislative Hearing, adopt the Resolution of Consistency, and enact Ordinance A.

UPDATES SINCE THE OCTOBER 27, 2021 LEGISLATIVE HEARING

No changes have been made.

PROCESS

The item before the Council is to approve a Land Use Management Ordinance Text Amendment. The Council must consider whether one or more of the **three findings** for enactment of the Land Use Management Ordinance Text Amendment applies:

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.

1

2

3

4

5

Previous LUMOTA – Review Criteria Language amended in April 2021

Call the Legislative Hearing

Planning Commission Review

Legislative Hearing

Consider Action on Text Amendment

DECISION POINTS & BACKGROUND

- In 2019, the Planning Department committed to amending the A-J criteria the Historic District Commission (HDC) used to determine congruity following the adoption of the revised Design Principles & Standards in March 2021.
- In April 2021, the Town Council approved text amendments removing the A-J from LUMO 3.6.2.(e)(4) criteria and made additional updates to LUMO 3.6.2 Historic Districts to address changes to Chapter 160D of the North Carolina General Statutes.
- Additional language is required to ensure the Town’s preservation ordinance is consistent with North Carolina General Statute 160D-947(a).

TEXT AMENDMENT OVERVIEW

On [April 21, 2021](#)¹, the Town Council approved text amendments to LUMO 3.6.2(e) that removed additional review criteria pertinent to the Historic District Commission’s review of Certificate of Appropriateness (COA) applications. Staff proposes adding language so that this section better aligns with [GS 160D-947\(a\)](#)² by requiring that the HDC make findings whether COA applications are incongruous with the special character of the historic district. The Commission may then deny those applications they find are incongruous and would harm the special character of the district. The proposed changes do not change the HDC’s current practice of determining congruity. The HDC will continue to apply the Design Principles & Standards to determine whether exterior changes to sites and structures within the Town’s local historic districts are incongruous with the special character of the district.

ATTACHMENTS	<ol style="list-style-type: none"> 1. Text Amendment Summary 2. Draft Staff Presentation 3. Resolution A (Resolution of Consistency) 4. Ordinance A (Enactment of Land Use Management Text Amendment Proposal) 5. Resolution B (Deny Land Use Management Text Amendment Proposal) 6. Advisory Board Recommendations
--------------------	---

¹ <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4916685&GUID=333205B7-F0B6-490D-AD90-260BDD05566B>

² https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_160D/GS_160D-947.pdf



PROPOSED CHANGES: TEXT AMENDMENTS TO THE LAND USE MANAGEMENT ORDINANCE ARTICLES 3

The following is a summary of the proposed text amendment to amend the LUMO:

1. Section 3.6.2 Historic Districts

- Amend the text in Section 3.6.2(e) Historic Districts to align with NC [GS 160D-947\(a\)](#):

(e) *Review criteria.*

(1) When considering the application, the commission shall apply the Design Principles and Standards and shall, in approving, approving with conditions, disapproving, or deferring an application, make findings of fact indicating ~~the extent to which the application is or is not in compliance with the Design Principles and Standards~~ **whether the application is incongruous with the special character of the historic district**, and shall cause these findings of facts to be entered into the minutes of its meetings. The minutes shall also contain a summary of any citation to evidence, testimony, studies, or other authority upon which the commission based its decision.

(2) The review shall not consider interior arrangement or use.

(3) The review shall not consider plantings and other vegetation.

(4) The review shall not consider paint color.