



OPEN A HEARING FOR AN APPLICATION FOR CONDITIONAL ZONING – 107 JOHNSON STREET

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Colleen Willger, Director
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PROPERTY ADDRESS 107 Johnson Street	MEETING DATE May 4, 2022	APPLICANT Empowerment, Inc.
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STAFF RECOMMENDATION

Staff recommends that the Council 1) open the legislative hearing, 2) receive comments on the Conditional Zoning Application, and 3) continue the hearing to June 8, 2022. Please see the attached Advisory Board recommendations.

ZONING

Existing: Residential-3 (R-3)
 Proposed: Residential-Special Standards-Conditional Zoning District (R-SS-CZD)

PROCESS

Conditional Zoning is a legislative process that allows Town Council to review the rezoning application for consistency with the Land Use Plan in the Comprehensive Plan and establish standards that address any impacts on surrounding properties.

PROJECT OVERVIEW

The site is in the Pine Knolls Neighborhood Conservation District, and the application proposes to construct a multifamily affordable housing development with ten dwelling units, restricted to households earning up to 30 percent of the Area Median Income (AMI). The project will include a community garden, a playground, a walking path, and associated parking and stormwater facilities.

DECISION POINTS

The applicant requests the following modifications to regulations:

- That a shelter be allowed to encroach 7 feet and 2 inches into the 10-foot street setback.

The submitted application does not include sufficient information for staff to determine compliance with Section 5.4 of the Land Use Management Ordinance Design and Development Standards, Stormwater management. Compliance with Section 5.4 Stormwater management will be required prior to any approval of a Final Plan Zoning Compliance Permit.

PROJECT LOCATION



ATTACHMENTS

1. Technical Report and Project Fact Sheet
2. Draft Staff Presentation
3. Resolution A (Resolution of Consistency and Reasonableness)
4. Ordinance A (Approving the Application)
5. Resolution B (Denying the Application)
6. Advisory Board Recommendations (*Planning Commission to be shared prior to meeting*)
7. Applicant Materials



TECHNICAL REPORT

PROJECT OVERVIEW

The application proposes applying a Residential-Special Standards-Conditional Zoning District (R-SS-CZD) district to the site to accommodate an affordable housing community. The site is currently vacant. The applicant's narrative and statement of justification have more details about the proposed development.

This report contains information about the site and proposed zoning districts, a list of proposed Modifications to Regulations, other important considerations that staff has identified, and an analysis of the project's consistency with the Comprehensive Plan and relevant Findings of Fact.

SITE CONTEXT

Staff identified the following physical and regulatory characteristics of the land which are relevant to a Zoning Atlas Amendment:

- The is 0.70-acres and is vacant. The former Pine Knolls Community Center was removed from the site in 2021.
- The site fronts on Johnson Street, a local street.
- The property is in the Pine Knolls Neighborhood Conservation District (CD-2).
- The properties to the north, west, and east are zoned Residential-3 (R-3), with single-family dwellings.
- Property to the south is zoned Office/Institutional-1 (OI-1) and contains the Chapel Hill-Carrboro City Schools Administrative Offices known as the Lincoln Center.
- There is no Resource Conservation District or floodplain on the site, which contains approximately 3,300 sq. ft. of slopes with over 10 percent grade.

PROPOSED ZONING

The applicant submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and which allows site-specific standards to be applied as conditions through a legislative process. The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with town regulations and adopted plans. A -CZD suffix would be added to the zoning district designation to incorporate the approved conditions. The applicant has proposed a Residential-Special Standards-Conditional Zoning District (R-SS-CZD) district for the site.

The Residential - Special Standards Conditional Zoning District (R-SS-CZD) is appropriate for "residential development and the recreational, open space, and other urban amenities

associated with such development”, provided that any rezoning to this district shall demonstrate either:

- Provision of 100 percent affordable housing
- Achievement of a combination of special standards that meet community interests¹

The proposed uses meet the intent statement of Residential – Special Standards Conditional Zoning District (R-SS-CZD). The Statement of Justification states that 100 percent of the housing proposed will serve households earning 30 percent AMI.

The applicant has proposed modifications to the street setback dimensional requirements, as summarized in the Modifications to Regulations section below.

PROPOSED MODIFICATIONS TO REGULATIONS

- 1) Section 3.8.2: Dimensional Regulations:** The street setback for the Residential-Special Standards-Conditional Zoning District (R-SS-CZD) is ten feet. The applicant requested a modification to allow a transit shelter to encroach seven feet and two inches into the setback.

Staff Comment: The applicant stated that the proposed modification request is to provide a shelter for residents to wait for ride-sharing and other public transit modalities. The applicant indicates that since the proposed occupants will be at or below 30 percent of the AMI that automobile ownership is anticipated to be low with greater dependance on alternate transit modes.

Council Findings and Public Purpose: The Council has the ability to modify the regulations according to Section 4.4.5 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer’s alternative is to revise the proposal to comply with the regulations.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

The following Technical Report provides a staff analysis of the Zoning Atlas Amendment based on long-range planning considerations. An amendment to the Zoning Atlas changes the permitted types and intensities of land uses allowed for a site.

Aspects of the application evaluated in this report include:

- **Consistency with the Comprehensive Plan**, based on the applicant’s proposed zoning district and overall proposed use program.
- **Reasonableness** of the change in zoning, based on the same considerations.
- **Findings of Fact** that could be used to justify a zoning amendment in accordance with Section 4.4 of the Land Use Management Ordinance (LUMO).

The Town Council must make findings on each of these three items as part of a Zoning Atlas Amendment action.

¹ LUMO Section 3.4.5

GENERAL INFO	
PROPERTY ADDRESS 107 & 107 A/B Johnson Street	APPLICANT EmPOWERment Inc.
CURRENT ZONING DISTRICT R-3 with Pine Knolls NCD Overlay	PROPOSED ZONING DISTRICT R-SS-CZD (maintain Overlay)

CONSISTENCY WITH THE COMPREHENSIVE PLAN

2050 FUTURE LAND USE MAP (FLUM) ELEMENTS		
FOCUS AREA & SUB-AREA None – outside Focus Areas	APPROPRIATE USES Medium Residential – generally 4-8 units per acre	OTHER
OTHER APPLICABLE ADOPTED SMALL AREA PLANS None		

North Carolina General Statute 160D-605 requires the Town Council to consider a statement of Plan consistency when reviewing any Zoning Atlas Amendment. Staff provides the following evaluation of this application’s consistency with the 2050 Future Land Use Map and other adopted components of the Chapel Hill 2020 Comprehensive Plan:

	Description of Plan Element	Staff Evaluation
Future Land Use Category	<p>The Future Land Use Map (FLUM) designates the site for Medium Residential, generally 4-8 units per acre. This category encompasses a fairly wide spectrum of housing types including small-scale multifamily housing. Development patterns should be compact and well-connected. The standard of 4-8 units per acre is characterized as a gross density that does not have to be strictly applied to every parcel.</p> <p>The site is outside of the Focus Areas. The land use guidance provided has been carried forward from the 2020 Land Use Plan.</p>	<p>The proposed rezoning is consistent with the character envisioned by the FLUM because the proposed zoning district allows residential uses. Zoning conditions can limit the scale of development such that the Medium Residential neighborhood maintains a general density consistent with the FLUM.</p>
Building Height	<p>The FLUM does not provide height guidance outside of the Focus Areas.</p>	

Mobility And Connectivity	The Mobility and Connectivity Plan does not propose any bicycle or pedestrian facilities that would impact this site.	Lack of connectivity to pedestrian and bicycle networks suggests that a change in zoning district would be reasonable only with zoning conditions to limit the scale of development.
Climate Action and Response	The Climate Action and Response Plan identifies Sustainable Development as a top strategy to reduce our community carbon footprint and build resiliency. The Transportation and Land Use chapter calls for creating walkable, bikeable, transit-served neighborhoods through strategies such as supportive zoning and integrated land use – transportation planning.	The site offers an opportunity for infill development in an existing neighborhood, with transit service nearby.
Chapel Hill 2020 Goals	<p>Opportunities for this application to support goals of Chapel Hill 2020 include:</p> <ul style="list-style-type: none"> • Contributing to a range of housing options for current and future residents. This aligns with the theme of <i>A Place for Everyone</i>. • Locating housing within walkable/bikeable distance of the UNC campus and downtown, and near a public transit route. This offers multimodal access to employment, services, and shopping, and aligns with the theme of <i>Getting Around</i>. • Expanding available housing types within an existing neighborhood, evolving Chapel Hill’s character and allowing that neighborhood to meet a range of resident needs. This aligns with the theme of <i>Good Places New Spaces</i>. 	

REASONABLENESS OF THE ZONING ATLAS AMENDMENT

Reasonableness is determined by comparing the scale of permissible development under the proposed zoning district to that of existing zoning, and by considering characteristics of the site and its surroundings. North Carolina General Statute 160D-605 requires the Town Council to consider a statement of reasonableness when reviewing any Zoning Atlas Amendment.

The analysis below considers the applicant’s proposed zoning district and overall proposed use program. Specific characteristics of the development proposal, compliance with regulations, and appropriate conditions to address potential impacts of the development are evaluated elsewhere.

SUMMARY OF ANALYSIS FOR REASONABLENESS
<p><u>Supporting Factors</u></p> <ul style="list-style-type: none"> • The previous use of the site as a community center (a nonresidential use) suggests that a multifamily use, while somewhat more intense than the surrounding housing types, is reasonable. • Some available transit service nearby suggests that small-scale multifamily development is reasonable.

<ul style="list-style-type: none"> Proposed zoning is consistent with the Land Use Category shown on the Future Land Use Map, provided that zoning conditions are applied to ensure a consistent density. Provision of affordable housing in this location aligns with several themes of Chapel Hill 2020. Zoning conditions are an inherent part of the proposed zoning district (it is only available as a CZD). Conditions provide an opportunity to limit intensity and to establish standards that address any impacts on surrounding properties.
<p><u>Other Considerations</u></p> <ul style="list-style-type: none"> The proposed change in zoning district would allow roughly 7 times the amount of permissible development. The proposed development program would allow a residential density roughly double that of existing zoning. The site’s location along a neighborhood street, along with the absence of sidewalks and bicycle facilities, suggests that a change in zoning district would be reasonable only with zoning conditions to address the intensity and potential traffic impacts of the development.

APPLICANT PROPOSAL

Project Description	Low-scale multifamily development with 10 units of affordable rentals in a cluster of buildings. The site is currently vacant and is located in an established neighborhood away from major roads	
Proposed Zoning Atlas Amendment (ZAA)	From Residential-3 (R-3) to Residential-Special Standards Conditional Zoning (R-SS-CZD)	Notes: The submittal of a Conditional Zoning application allows review of the development proposal in conjunction with the rezoning, and allows site-specific standards to be formulated and applied as conditions through a legislative process. A -CZD suffix would be applied to acknowledge approval of conditions.
Applicant Reasoning for ZAA	To accommodate the proposed number of units, with a residential district that offers flexibility on dimensional criteria.	

Comparing Existing Permissible Development to Proposed

	LUMO Standard for R-3 and NCD	Staff Evaluation
District Intent	<p><u>Section 3.4.5:</u> The Residential-Special Standards district (R-SS-CZD) is available only through a conditional zoning application. Proposed development must either promote a 100% affordable on-site component, or meet a series of other objectives related to community goals.</p> <p><u>Appendix B, Division 4:</u> The Pine Knolls Neighborhood Conservation District (NCD) is intended to help preserve the character of a particular, older residential neighborhood.</p>	<p>The application states that all of the proposed multifamily will be affordable rentals for families earning 30% Area Median Income. This meets the primary objective of the proposed zoning district. Zoning conditions would be useful to ensure that performance expectations for affordable housing are achieved.</p>

<p>Permitted Uses</p>	<p><u>Table 3.7-1</u>: Permitted uses in R-SS-CZD include the full range of single-family and multifamily dwelling types. Other uses, including public facilities, are generally not allowed.</p> <p><u>Sec. 4.3</u>: The NCD prohibits certain uses and establishes an affordability standard for duplexes and triplexes. This overlay does not appear to create an issue with allowing multifamily dwellings through the base zoning district.</p>	<p>The associated Conditional Zoning application proposes Multifamily Dwelling Units with more than 7 units per lot, which is permitted in R-SS-CZD.</p> <p>The existing R-3 zoning limits uses to single-family and duplex dwellings, in addition to certain public facilities.</p>
<p>Dimensional Standards</p>	<p><u>Table 3.8-1</u>: Standards for R-SS-CZD are broadly permissive for development. The main factor limiting development intensity is Maximum Height.</p> <ul style="list-style-type: none"> • No maximum Residential Density • Maximum Building Height of 39 ft. at the setback line and 60 ft. at the site core • Minimum Street Setback of 10 ft. • Maximum Floor Area Ratio of 1.10 <p><u>Sec. 4.3</u>: The NCD establishes special Height Limits and Floor Area Ratios that are applicable only to single-family and duplex dwellings, uses which are not proposed in this application.</p>	<p>The associated Conditional Zoning application proposes:</p> <ul style="list-style-type: none"> • 10 dwelling units, resulting in a Residential Density of 13.5 units/acre • Maximum Building Height of 30 ft at both the setback line and the site core • Minimum Street Setback of 28 ft • 7,697 sq. ft., resulting in a Floor Area Ratio of 0.24 <p>The existing R-3 zoning has the following standards:</p> <ul style="list-style-type: none"> • Maximum Residential Density Of 7.0 units/acre • Maximum Building Height of 29 ft. at the setback line and 60 ft. at the site core • Minimum Street Setback of 24 ft. • Maximum Floor Area Ratio of 0.162 <p>Based on the comparison of Floor Area Ratio alone, R-SS-CZD allows close to 7 times the amount of development potential that currently exists for the site. Zoning conditions would be useful to ensure appropriate development intensity.</p>

Design and Development Standards

Other standards (including landscape buffers, parking spaces, stormwater treatment, etc.) are established in LUMO Article 5 and are applicable to both the R-SS-CZD and R-3 districts. A change in zoning district would not change how Article 5 standards apply. Additional special design standards established for the NCD in Appendix B, Division 4 are generally applicable to single-family and duplex dwellings only.

The Conditional Zoning application provides an opportunity to establish conditions that modify development standards in order to address impacts reasonably expected to be generated by development.

Consideration of the Site and its Surroundings

	Description	Staff Evaluation
Existing Use and Surroundings	Two vacant lots, one wooded, the other formerly the site of a small community center. Site is within an established neighborhood containing mostly single-family and duplex dwellings.	The previous nonresidential use of the site (community center) suggests a multifamily use, somewhat more intense than the surrounding housing types, is reasonable.
Adjacent Zoning Districts and Land Uses	<u>North, East and West</u> : R-3, single-family and duplex dwellings <u>South</u> : OI-1-CZD, school district offices with approval for program expansion	R-SS-CZD is a flexible zoning district that typically relies on zoning conditions (e.g. height, setbacks) to ensure compatibility with adjacent zoning districts. It is therefore reasonable to apply in most contexts. The surrounding area has been developed with residential and institutional uses. Zoning conditions would be useful to ensure that the scale of the proposed multifamily dwellings is compatible with the surrounding built environment.
Transit Service	Existing local bus route runs nearby along S Merritt Mill Road. The site is within 0.2 miles of a bus stop.	Some available transit service suggests that small-scale multifamily development is reasonable.
Roads and Vehicular Access	Frontage on Johnson Street, a local neighborhood street.	The location along a neighborhood street suggests that a change in zoning district would be reasonable only with zoning conditions to limit trip generation (e.g. maximum bedrooms).
Pedestrian & Bike Facilities (existing)	Johnson Street and other surrounding streets do not have any sidewalks or bicycle facilities.	The absence of sidewalks and bicycle facilities suggests that a change in zoning district would be reasonable only with zoning conditions to limit the scale of development.
Streams/ Wetlands/ Floodplain	No floodplain impacts the site. No stream features or wetlands have been identified at this time.	The submitted application does not include sufficient information for staff to determine compliance with Section 5.4 of the Land Use Management Ordinance Design and Development Standards, Stormwater management.
Topography	The site slopes down from northeast to southwest, with mostly gentle slopes. A few areas have been identified with steeper slopes, including along the western site boundary.	Compliance with Section 5.4 Stormwater management will be required prior to any approval of a Final Plan Zoning Compliance Permit.

	More intense development (relative to existing zoning) could reasonably occur without substantial impact to sensitive environmental features.
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LAND USE MANAGEMENT ORDINANCE FINDINGS OF FACT

Staff provides the following evaluation of the application under the three Findings of Fact identified in LUMO Section 4.4. LUMO states that the Zoning Atlas shall not be amended unless at least one of the Findings are made.

FINDING #1: The proposed zoning amendment is necessary to correct a manifest error.	
Arguments	To date, no arguments in support or in opposition have been submitted or identified by staff.
Staff Evaluation	There appears to be no manifest error in the Town’s Zoning Atlas.

FINDING #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.	
Arguments	Staff notes that affordable housing able to serve various populations has been a growing need throughout the jurisdiction. To date, no arguments in opposition have been submitted or identified by staff.
Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions in Chapel Hill.

FINDING #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.	
Arguments	Staff notes that the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan through the following: <ul style="list-style-type: none"> • Facilitating development that implements the Land Use Category designated on the Future Land Use Map • Supporting goals of Chapel Hill 2020 including <i>A Place for Everyone, Getting Around, and Good Places New Spaces</i>. To date, no arguments in opposition have been submitted or identified by staff.
Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.

Further information may be presented for the Council’s consideration as part of the public hearing process. All information submitted at the public hearing will be included in the record of the hearing.



















PROJECT FACT SHEET




Project Details

Site Description	
Project Name	PEACH Apartments
Address	107 Johnson Street
Property Size (NLA)	29,258 SF (0.67 acres)
Existing	Vacant
Orange County Parcel Identifier Numbers	9788-03-2946, 9788-03-0899, and 9788-03-0940
Existing Zoning	Residential-3 (R-3) and Pine Knolls Neighborhood Conservation District (CD-2)
Proposed Zoning	Residential-Special Standards-Conditional Zoning District (R-SS-CZD)


Site Development Standards

Topic	Comment	Status
Development Intensity		
Use/Density (Sec. 3.7)	Existing Use: vacant Proposed Use: affordable multifamily dwellings (10 units total)	
Dimensional Standards (Sec. 3.8)	Primary height: 39 ft. Core height: 60 ft. Setbacks: 10 ft. street setback	M
Floor area (Sec. 3.8)	Maximum: 35,380 sq. ft. Proposed: 7,697 sq. ft.	
Landscape		
Buffers (Sec. 5.6.2)	N/A in Residential-Special Standards district	
Tree Canopy (Sec. 5.7)	Meet or exceed LUMO 5.7 standards	
Landscape Standards (Sec. 5.9.6)	Meet or exceed LUMO 5.9 standards	
Environment		
Resource Conservation District (Sec. 3.6)	N/A	
Erosion Control (Sec. 5.3.1)	As required	

Steep Slopes (Sec. 5.3.2)	N/A	
Stormwater Management (Sec. 5.4)	The submitted application does not include sufficient information for staff to determine compliance with Section 5.4 of the Land Use Management Ordinance Design and Development Standards. Demonstrating compliance with Section 5.4 will be required prior to approval of a Zoning Compliance Permit.	FP
Land Disturbance	23,399 sq. ft.	
Impervious Surface	11,508 sq. ft. (36%)	
Solid Waste & Recycling	Public trash and recycling pickup proposed	
Jordan Riparian Buffer (Sec. 5.18)	N/A	
Access & Circulation		
Road Improvements (Sec. 5.8)	N/A	
Vehicular Access (Sec. 5.8)	Access proposed off of Johnson Street	
Bicycle Improvements (Sec. 5.8)	N/A	
Pedestrian Improvements (Sec. 5.8)	Sidewalk required	M
Traffic Impact Analysis (Sec. 5.9)	TIA exemption approved	
Vehicular Parking (Sec. 5.9)	<i>Required:</i> 12 minimum spaces to 15 maximum spaces <i>Proposed:</i> 13 parking spaces	
Transit (Sec. 5.8)	N/A	
Bicycle Parking (Sec. 5.9)	<i>Required:</i> 3 spaces <i>Proposed:</i> 4 spaces	
Electric Vehicle Parking	N/A	
Parking Lot Standards (Sec. 5.9)	Built to Town Standards	
Technical		
Fire	Built to Town Standards	
Schools Adequate Public Facilities (Sec. 5.16)	N/A	

Inclusionary Zoning Ordinance (Sec. 3.10)	100 % affordable	
Recreation Area (Sec. 5.5)	Waiver from active recreation space payment-in-lieu requested.	M
Lighting Plan (Sec. 5.11)	Built to Town Standards; not to exceed 0.3 footcandles at property line	
Homeowners Association (Sec. 4.6)	N/A	

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
FP	Required at Final Plan
NA	Not Applicable