

ORDINANCE A

(Enacting the Land Use Management Ordinance Text Amendment proposal)

AN ORDINANCE AMENDING ARTICLES 3, 4, 5, AND APPENDIX A OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE REGARDING CONDITIONAL ZONING DISTRICTS, RELATED REVIEW PROCEDURES, AND CERTAIN DESIGN AND DEVELOPMENT STANDARDS RELATED TO AFFORDABLE HOUSING (2022-11-16/O-3)

WHEREAS, on September 22, 2021, Council members petitioned the Town Council to implement strategies to rapidly promote increased production and availability of affordable and missing middle housing, with one component of the petition being an expedited application process for projects with a substantial amount of affordable housing; and

WHEREAS, on November 9, 2021, the Housing Advisory Board made a recommendation to reduce the entitlement process for affordable housing to less than six months; and

WHEREAS, on May 11, 2022, the Town Council held a Work Session to discuss potential solutions for expediting review and provided direction on the elements to incorporate into a new process for affordable housing applications; and

WHEREAS, Chapel Hill has an acute unmet need for three thousand two hundred and eighty (3,280) dwelling units that are affordable to households earning sixty (60) percent of Area Median Income or less; and

WHEREAS, housing production in Chapel Hill will need to significantly increase in order to keep pace with population growth; and

WHEREAS, the Town's existing development review processes contribute to the limited supply of affordable housing by increasing the cost, complexity, and risk associated with developing housing in Chapel Hill; and

WHEREAS, Town staff has worked in consultation with stakeholders to formulate possible modifications to the Land Use Management Ordinance that respond to the petition interests; and

WHEREAS, the Planning Commission reviewed the text amendments to the Land Use Management Ordinance Articles 3, 4, and 5, and Appendix A on October 4, 2022, and unanimously recommended that the Council enact the text amendments; and

WHEREAS, on September 14, 2022, the Town Council called a Legislative Hearing to amend Articles 3, 4, 5, and Appendix A of the Land Use Management Ordinance as it relates to Conditional Zoning Districts, Related Review Procedures, and Certain Design and Development Standards for the Council's October 19, 2022 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, 5, 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.

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 is hereby amended as follows:

Section 1. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.1. - Establishment and intent of zoning districts is amended to insert a new Subsection 3.1.3 for the Residential-Community Priority-Conditional Zoning District (R-CP-CZD).

“3.1. Establishment and intent of zoning districts.

The town and its extraterritorial planning jurisdiction are hereby divided into zoning districts as enumerated below. The use regulations and intensity regulations applicable for such zoning districts are designated in sections 3.7 and 3.8 of this article.

- 3.1.1 Conventional districts may be established by the town council approval of a conventional rezoning pursuant to the procedures established in section 4.4.2 of this appendix. Such approval authorizes the full range of uses in accordance with the standards applicable to the conventional district.
- 3.1.2 The Light-Industrial Conditional Zoning District (LI-CZD), may be established by the town council approval of a conditional zoning district pursuant to the procedures established in section 4.4.3 of this Appendix. The light-industrial conditional zoning district incorporates district-specific rezoning plans and conditions agreed to by the owner(s) of the rezoned land. Such approval authorizes development of the Light-Industrial conditional zoning district-specific rezoning plan in accordance with the standards applicable to the conditional zoning district, as modified by the conditions contained with the conditional zoning district approval.
- 3.1.3 The Residential-Community Priority-Conditional Zoning District (R-CP-CZD) may be established by the town council approval of a conditional zoning district pursuant to the procedures established in section 4.4.5 of this appendix, provided the conditional zoning district is deemed consistent the Future Land Use Map Update to Chapel Hill 2020. The Residential-Community Priority-Conditional Zoning District (R-CP-CZD) incorporates community priority rezoning plans and conditions agreed to by the owner(s) of the rezoned land. Such approval authorizes development of the community priority rezoning plan in accordance with the standards applicable to the conditional zoning district, as modified by the conditions contained with the conditional zoning district approval.
- ~~3.1.3~~ 3.1.4 Conditional Zoning Districts, other than the LI-CZD and R-CP-CZD, may be established by the town council approval of a conditional zoning district pursuant to the procedures established in section ~~4.4.5~~ 4.4.7 of this appendix, provided the conditional zoning district is deemed consistent with the Future Land Use Map (2050) in the comprehensive plan by locating in conformance with an adopted small area plan, in a Focus Area as defined in the Future Land Use Map Update to *Chapel Hill 2020*, or in one of the following land use categories
 - Medium Residential
 - High Residential
 - Commercial/Office
 - Mixed Use
 - Village Center
 - Institutional

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Conditional zoning districts incorporate district-specific plans, site-specific standards, and conditions agreed to, in writing, by the town and the owner(s) of the property included in the conditional zoning district. Conditional zoning districts are designated with the suffix CZD on the zoning atlas."

Section 2. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.4. - Conditional Districts, Subsection 3.4.2 Residential-Special Standards-Conditional Use Districts is amended to read as follows:

"3.4.2. Residential-Special Standards-Conditional Use Districts.

The residential-special standards-conditional use district (R-SS-C) established pursuant to North Carolina General Statutes Section 160A-382 is hereby converted to a defined conditional zoning district pursuant to North Carolina General Statutes 160D and section 3.4.3 of this appendix. Any R-SS-C district established prior to October 2020 shall be henceforth shown as R-SS-CZD on the zoning atlas. Any proposed modifications to R-SS-C districts established prior to October 2020 shall be considered pursuant to **Section 4.4.5 4.4.7.**"

Section 3. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.4. - Conditional Districts, Subsections 3.4.3.(b) is revised to read as follows:

"(b) The following defined conditional zoning districts are hereby established to provide an alternative to general use and parallel conditional zoning districts:

- (1) Light Industrial Conditional Zoning District (LI-CZD) pursuant to 3.4.4 and the applicable provisions of this appendix
- (2) Residential Special Standards Conditional Zoning District (R-SS-CZD) pursuant to 3.4.5 and the applicable provisions of this appendix
- (3) Mixed Use Village Conditional Zoning District (MU-V-CZD) pursuant to 3.4.6 and the applicable provisions of this appendix
- (4) Residential-Community Priority-Conditional Zoning District (R-CP-CZD) pursuant to 3.4.7 and the applicable provisions of this appendix

Development in a defined conditional zoning district is subject to the applicable provisions in this Appendix, as modified by the approved district-specific plans and conditions:

- (1) That are proposed or agreed to by the owner(s) of the subject land;
- (2) That incorporate any proposed modifications to applicable regulations; and
- (3) That are limited to conditions that address conformance of the allowable development and use of the rezoning site with Town regulations and adopted plans, and impacts reasonably expected to be generated by the allowable development or use of the site."

Section 4. Article 3. Zoning Districts, Uses, and Dimensional Standards, Sections 3.4. - Conditional Districts is revised to add a new Subsection 3.4.7 Residential-Community Priority-Conditional Zoning District (R-CP-CZD) to read as follows:

"3.4.7 Residential-Community Priority-Conditional Zoning District (R-CP-CZD).

The Residential-Community Priority-Conditional zoning district (R-CP-CZD) as established in 3.4.3 is intended to support and encourage the production of quality affordable housing throughout town. Developments reviewed and entitled pursuant to the Community Priority Process for Affordable Housing Development Review may be permitted in the R-CP-CZD.

(a) Eligibility Criteria for the R-CP-CZD

Zoning atlas amendment applications proposing to rezone a site to the Residential-Community Priority-Conditional Zoning District (R-CP-CZD) must demonstrate that the proposed development complies with the following criteria:

- (1) Thirty (30) percent of rental units must be affordable at or below sixty (60) percent of Area Median Income (AMI) for a period of at least thirty (30) years and
- (2) Thirty (30) percent of for-sale units must be affordable at or below eighty (80) percent AMI for a period of at least ninety-nine (99) years.

(b) Community Priority Process for Affordable Housing Development Review

An application for a conditional zoning to a R-CP-CZD which meets the eligibility criteria defined in Section 3.4.7(a) of this appendix may be reviewed and entitled through the Community Priority Process for Affordable Housing Development Review as defined in Section 4.4 of this appendix.

(c) Non-residential uses in the R-CP-CZD

Non-residential uses that are permitted as a CZ** in Table 3.7-1: Use Matrix must be proposed and reviewed as a component of a development in a Residential-Community Priority-Conditional Zoning District (R-CP-CZD) application. Such uses shall not represent more than twenty-five (25) percent of the total floor area of the proposed development. Floor area restrictions shall not apply to non-residential uses that are accessory uses to an allowable residential use."

Section 5. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.7. Use regulations, Section 3.7.2 Use Matrix, Table 3.7-1: Use Matrix is amended to insert a column to the right of the R-SS-CZD in the Zoning District section to define the allowable uses in the R-CP-CZD.

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Table 3.7-1: Use Matrix						
Uses	Use Group	Zoning District				
		...	R-6	R-SS-CZD	R-CP-CZD	...
Accessory use customarily incidental to a permitted principal or special use	A	...	A	A	A	...
Adult day care facility (See also Article 6)	B	...	P, A	—	CZ**	...
Agriculture, Female Chickens	A	...	A	A	A	...
Agriculture, livestock	A	...	—	—	—	...
Agriculture, non-livestock	A	...	A	—	A	...

Automated teller machines (ATM) (Walkup)	C	...	—	—	<u>CZ**</u>	...
Automated teller machines (ATM) (Drive-up)	C	...	—	—	<u>CZ**</u>	...
Automotive Repair	C	...	—	—	<u>—</u>	...
Automotive repair (less collision, service and painting)	C	...	—	—	<u>—</u>	...
Automotive, trailer, and farm implement sales or rental	C	...	—	—	<u>—</u>	...
Bank	C	...	—	—	<u>CZ**</u>	...
Barber shop/beauty salon	C	...	—	—	<u>CZ**</u>	...
Business—Convenience	C	...	—	—	<u>CZ**</u>	...
Business—General	C	...	—	—	<u>CZ**</u>	...
Business—Wholesale	C	...	—	—	<u>CZ**</u>	...
Business, office-type	B	...	—	—	<u>CZ**</u>	...
Car wash (See also Article 6)	C	...	—	—	<u>—</u>	...
Cemetery (See also Article 6)	A	...	S	—	<u>—</u>	...
Child day care facility (See also Article 6)	B	...	P, A	—	<u>CZ**</u>	...
Clinic	B	...	—	—	<u>CZ**</u>	...
Club	B	...	—	—	<u>—</u>	...
College or University	B	...	—	—	<u>—</u>	...
Drive-in window (See also Article 6)	C	...	—	—	<u>A</u>	...
Dwelling Units, Single Family	A	...	P	CZ	<u>CZ</u>	...
Dwelling units, single-family with accessory apartment	A	...	P	CZ	<u>CZ</u>	...
Dwelling units, duplex (See also Article 6)	A	...	P	CZ	<u>CZ</u>	...
Dwelling units, multifamily, 3 to 7 dwelling units	A	...	P	CZ	<u>CZ</u>	...
Dwelling units, multifamily, over 7 dwelling units	A	...	CZ	CZ	<u>CZ</u>	...
Dwelling units, Live-Work (See also Article 6)	B	...	—	—	<u>CZ</u>	...
Dwelling units, triplex (See also Article 6)	A	...	—	—	<u>CZ</u>	...
Dwelling Unit, Upper Story	A	...	—	—	<u>CZ</u>	...
Essential services	A	...	P, A	—	<u>CZ**</u>	...
Extraction of earth products (See also Article 6)	C	...	—	—	<u>—</u>	...
Fine arts educational institution (See also Article 6)	B	...	S	—	<u>CZ**</u>	...
Flex office	C	...	—	—	<u>CZ**</u>	...
Flex space	C	...	—	—	<u>CZ**</u>	...
Food Truck	C	...	—	—	<u>A</u>	...
Fraternity dwelling (See also Article 6)	B	...	S	—	<u>—</u>	...
Funeral home	B	...	—	—	<u>—</u>	...

Group care facility (See also Article 6)	B	...	S	—	—	...
Hangar, medical aircraft	C	...	—	—	—	...
Home occupation	A	...	A	A	<u>A</u>	...
Home occupation, Major (See also Article 6)	A	...	—	—	—	...
Hospital	B	...	—	—	—	...
Hotel or motel	B	...	—	—	<u>CZ**</u>	...
Independent Senior Living Facility (See also Article 6)	B	...	S	—	<u>CZ**</u>	...
Kennel	C	...	—	—	—	...
Landfill (See also Article 6)	C	...	—	—	—	...
Maintenance/storage facility	C	...	—	—	—	...
Manufactured home park	A	...	—	—	—	...
Manufactured home, Class A	A	...	P	CZ	—	...
Manufactured home, Class B	A	...	—	—	—	...
Manufacturing, light	C	...	—	—	<u>CZ**</u>	...
Outdoor skateboard ramp (See Article 6)	A	...	A	—	<u>CZ**</u>	...
Park/ride (See also Article 6)	C	...	S	—	<u>CZ**</u>	...
Parking, off-street	C	...	A	—	<u>A</u>	...
Personal services	C	...	—	—	<u>CZ**</u>	...
Place of assembly, over 2,000 seating capacity (See also Article 6)	C	...	—	—	—	...
Place of assembly, up to 2,000 seating capacity	C	...	A	—	—	...
Place of worship (See Article 6)	B	...	P	—	—	...
Public cultural facility	B	...	P, A	—	<u>CZ**</u>	...
Public service facility (See also Article 6)	C	...	S	—	—	...
Public use facility	B	...	P, A	—	<u>CZ**</u>	...
Publishing and/or printing	C	...	—	—	<u>CZ**</u>	...
Recreation facility: Commercial	C	...	—	—	<u>CZ**</u>	...
Recreation facility: Non-profit	C	...	P	—	<u>CZ**</u>	...
Recreation facility: Outdoor commercial	C	...	—	—	<u>CZ**</u>	...
Research activities	B	...	—	—	<u>CZ**</u>	...
Research Activities, Light	C	...	—	—	<u>CZ**</u>	...
Residence hall	B	...	—	—	—	...
Residential support facility	B	...	—	—	—	...
Rooming house	B	...	P	—	—	...
School, elementary or secondary	B	...	P	—	<u>P</u>	...
Service station/convenience store (See also Article 6)	C	...	—	—	<u>CZ**</u>	...
Shelter	B	...	—	—	—	...
Self-Storage Facility, Conditioned	C	...	—	—	—	...
Short-term rental, dedicated	A	...	-	-	<u>CZ**</u>	...
Short-term rental, primary residence	A	...	A	-	<u>A</u>	...

Solid waste management facility	C	...	—	—	—	...
Supply yard	C	...	—	—	—	...
Temporary portable building: Construction-related (See also Article 6)	C	...	A	—	A	...
Temporary portable building: Not construction-related	C	...	—	—	—	...
Tourist home	B	...	—	—	—	...
Veterinary hospital or clinic	C	...	—	—	CZ**	...
Vocational school	C	...	—	—	CZ**	...
Water and wastewater treatment plan	C	...	—	—	—	...
Wireless Communication Facilities						
Collocation on existing tower or base station	C	...	P	P	P	...
Small wireless facility [^] , concealed: new base station or new dual purpose tower	C	...	S	S	S	...
Small wireless facility [^] , non- concealed: new base station or new tower	C	...	—	—	—	...
Macrocell facility: new concealed base station	C	...	P	P	P	...
Macrocell facility: new concealed dual-purpose tower	C	...	S	S	S	...
Macrocell facility: new non- concealed base station	C	...	—	—	—	...
Macrocell facility: new non- concealed tower	C	...	—	—	—	...

”

Section 6. Article 3. Zoning Districts, Uses, and Dimensional Standards, Section 3.8. Dimensional standards, Table 3.8-1: Dimensional Matrix is amended to add a new row below the R-SS-CZD to provide dimensional standards for the R-CP-CZD.

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(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)
Zoning District	Lot Size (square feet min)	Density (units per acre max)	Frontage (min feet)	Lot Width (min feet)	Building Height, Setback (max feet)	Building Height, Core (max feet)	Street Setback (min feet)	Interior Setback (min feet)	Solar Setback (min feet)	Impervious Surface Ratio (max)*	Floor Area Ratio (max)	Street Setback (max feet)
...
R-SS-CZD	N/A	N/A	N/A	N/A	39	60	10	0	N/A	.5/.7	1.10	N/A

R-CP-CZD	N/A	N/A	N/A	N/A	39	60	10	0	N/A	.5/.7	1.10	N/A
...

"

Section 7. Article 4. Procedures, Section 4.3 Concept Plan Review, Subsection 4.3.1 Applicability is amended to read as follows:

"4.3.1 Applicability.

(a) *Proposals subject to 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)."

Section 8. Article 4. Procedures, Section 4.4 Zoning Amendments is amended to add new subsections 4.4.5 Procedures – Community Priority Process for Affordable Housing Development Review and 4.4.6 Minor Modifications to Approved Community Priority Rezoning Plans in the Residential-Community Priority-Conditional Zoning District to read as follows:

"4.4.5 Procedures – Community Priority Process for Affordable Housing Development Review

(a) Pre-application eligibility determination.

- (1) The town manager shall determine whether a proposed project meets the eligibility criteria, as defined in Section 3.4.7(a) of this appendix, for the Community Priority Process for Affordable Housing Development Review.
- (2) Prior to a formal application submission, as required in Section 4.4.5(b) of this appendix, applicants shall request a determination of eligibility from the town manager and provide any necessary supporting materials.
- (2) The town manager shall prescribe the form(s) on which requests for eligibility are made and any materials that may reasonably be required to determine conformity with the eligibility criteria defined in Section 3.4.7(a) of this appendix.

(b) Application submittal requirements.

- (1) Applications for amendments to this appendix, as provided in subsection 4.4.1(a), 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 and the name and address of the owner of each zoning lot involved. The town manager shall prescribe any other material that may reasonably be required to determine the feasibility of compliance with this appendix, with sufficient copies for necessary referrals and records.

- (3) An application for a Residential-Community Priority-Conditional Zoning District (R-CP-CZD) rezoning pursuant to the Community Priority Process for Affordable Housing Development Review shall include a community priority rezoning plan in accordance with its definition in this appendix.
 - (4) No application shall be accepted by the town manager unless it complies with such requirements. Applications that are not complete shall be returned to the applicant, with a notation of the deficiencies in the application.
- (c) Town manager's analysis and report to planning commission. When the town manager accepts an application for amendment, the town manager shall cause appropriate officials to determine the extent to which it conforms to the comprehensive plan, the provisions of this appendix, other regulations applicable in the case and other adopted plans. Applicants shall define specifically the modifications of regulations that seem justified in view of the criteria set out in subsection 3.4.3. Upon completion of his or her report, the town manager shall submit the report at the next regularly scheduled meeting of the planning commission.
- (d) Planning commission review.
- (1) The planning commission shall review the application and the town manager's report and recommendations, and shall submit a written recommendation to the town council. Pursuant to NCGS 160D-604(d), such recommendation shall include consideration of plan consistency. When conducting a review of proposed atlas amendments, the planning commission shall advise and comment on whether the proposed action is consistent with the comprehensive plan. The planning commission shall provide a written recommendation to the town council that addresses plan consistency and other matters as deemed appropriate by the planning commission, but a comment by the planning commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town council. If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the planning commission statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.
 - (2) The planning commission shall prepare its recommendations within thirty (30) days of the meeting at which the town manager's report is submitted to the planning commission and shall forward its recommendations to the town council at the town council's next available legislative hearing scheduled for amendment applications or within such further time consented to in writing by the applicant or by town council resolution. If the planning commission fails to complete its recommendation to the town council within this time limit, or extensions thereof, the town council may proceed in its consideration without the planning commission's recommendations.
- (e) Legislative hearing.
- (1) After it receives the town manager's report and the planning commission's recommendation or, if applicable, the expiration of the time limit prescribed in subsection 4.4.5.(d)(2), the town council shall hold a legislative hearing on the application at the next available town council meeting where legislative hearings will be held in order to receive comments and exhibits pertaining to the application. The town council, by resolution, shall adopt a schedule of meetings.
 - (2) Notice of the date, time, and place of the legislative hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two

- (2) consecutive 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.
- (3) Pursuant to NCGS 160D-602, the owners of affected parcels of land, and the owners of all parcels of land abutting a proposed zoning atlas amendment shall be mailed a notice of the legislative hearing by first class mail at the last address listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. For the purpose of this appendix, properties are "abutting" even if separated by a street, railroad, or other transportation corridor.
- (4) Pursuant to NCGS 160D-602(c), for zoning atlas amendments, notice of the legislative hearing shall also be posted on the site at least 10 but not more than 25 days prior to the date of the legislative hearing.
- (f) Town manager's report to town council.
- (1) The town council may act upon a rezoning application to a residential-community priority-standards CZD at the same meeting at which it conducts an initial legislative hearing on the application.
- (2) If the town council chooses not to act upon a rezoning application to a residential-community priority-standards CZD at the same meeting at which it conducts an initial legislative hearing on the application, the town council may direct the town manager and town attorney to review the record of the legislative hearing and prepare and submit to the town council a report containing findings as to conformity with the intent of this appendix and a recommendation for action.
- (2) Such report shall be submitted to the town council within thirty (30) days after completion of the initial legislative hearing, or within such further time as may be consented to by written notice from the applicant or by town council resolution. Failure of the town manager to submit a recommendation to the town council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.
- (g) Town council action.
- (1) Plan consistency. Pursuant to NCGS 160D-605(a), when adopting or rejecting any text or atlas amendment, the town council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning commission's recommendations and any relevant portions of the comprehensive plan. If a zoning atlas amendment is adopted and the action was deemed inconsistent with the adopted comprehensive plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. If a zoning atlas amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the town council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the comprehensive plan were considered in the action taken.
- (2) Statement of Reasonableness for Zoning Atlas Amendments. Pursuant to NCGS 160D-605(b), when adopting or rejecting any petition for a zoning atlas amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the town council. This statement of reasonableness may

consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning atlas amendment qualifies as a "large-scale rezoning" under NCGS 160D-602(b), the town council statement on reasonableness may address the overall rezoning.

(3) Single Statement Permissible. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

(4) The town council shall act on the application after reviewing the application, the planning commission's recommendation and the town manager's report, and the public comment thereon.

(5) Final action shall be based on the following:

a. The feasibility of conformity of the application with the applicable provisions of this appendix and town Code.

b. The conformity of the application with the comprehensive plan.

c. The compatibility of the proposed application with adjoining uses.

d. The impacts of the proposed application on the surrounding properties and town as a whole.

e. The relationship of the application to existing and proposed built systems including utility infrastructure, transportation facilities, police and fire coverage, and other public services and facilities.

f. The relationship of the application to natural systems such as hydrology, topography, and other environmental constraints.

(h) Conditions. In accordance with NCGS 160D-703(b) any conditions of approval shall be:

(1) Expressly set forth in the approval;

(2) Agreed upon by the property owner(s), in writing, and the town council; and

(3) Limited to conditions, district-specific plans, and site-specific standards that address the conformance of the development and use of the site to town regulations, plans adopted pursuant to NCGS 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

(i) Effect of denial or withdrawal on subsequent applications. When the town council shall have denied an application for amendment or the application shall have been withdrawn, by written notice, after publication of the first legislative hearing notice required in subsection 4.4.5.(e), the town manager shall not accept another application for the same or similar conditional zoning district rezoning affecting the same property or a portion thereof, until the expiration of a three-month period extending from the date of denial or withdrawal, as appropriate.

(j) Amended applications. If the applicant proposes any substantial changes to the application subsequent to acceptance of the application, an amended application shall be submitted and reviewed as an original application.

(k) Actions subsequent to decision.

- (1) The town manager shall cause notice of the disposition of the application to be sent to the applicant and shall cause a copy of the decision to be filed in the office of the planning department.
 - (2) In the case of approval, any necessary changes to the official zoning atlas shall be entered in accordance with the provisions of article 3.
 - (3) In the case of approval or approval with conditions, the community priority rezoning plan and conditions are incorporated into the conditional zoning district and are binding on the land.
 - (4) In the case of approval or approval with conditions, the applicant may subsequently submit final plans to the town manager for approval, in a form and content prescribed by the town manager. Approval of such plans shall be based on compliance with all applicable regulations and requirements, including all conditions and the community priority rezoning plan attached to the conditional zoning district rezoning approval.
- (1) Expiration of conditional zoning district rezoning approval. If a final plans zoning compliance permit application is not filed with the town manager within twenty-four (24) months of the date of approval, or within such further time stipulated in the approval, the approval shall expire and the conditional zoning district shall be void and the property shall revert to its previous zoning classification. The town manager may grant a single extension of the starting time limit for up to twenty-four (24) months, unless he/she determines that paramount considerations of health, the general welfare, or public safety require town council re-approval. In such instances or in the instance the town manager has already granted a single extension of the time limit, the town manager shall require the application to be reviewed in accordance with the procedures set forth in subsections 4.4.1 and 4.4.5.

4.4.6 Minor Modifications to Approved Community Priority Rezoning Plans in the Residential-Community Priority-Conditional Zoning District.

The town manager may approve minor modifications to community priority rezoning plans attached to an approved conditional zoning district rezoning provided that such changes continue to comply with the approving action of the town council and all other applicable requirements or are required specifically by a condition of approval.

The town manager shall not have the authority to approve changes to approved rezoning plans that constitute a major modification of the rezoning plan. If a major modification is proposed, the town manager shall require the filing of an application for approval of the modification. An application for modification of a rezoning plan shall be reviewed in accordance with the procedures established in subsections 4.4.1 and 4.4.5.

- (a) All minor modifications must be consistent with the approved rezoning plan and comply with all applicable provisions of this appendix. Consistency means the changes would not significantly negatively alter the development's impervious coverage, demand on public facilities, stormwater runoff, or other characteristic from that indicated by the approved rezoning plan. Where measurable and except where provided otherwise, a ten (10) percent change shall be considered significant whether such change is proposed through one (1) request or through multiple requests over an extended period of time. Notwithstanding, the following shall constitute a minor modification:
- (1) An increase in the number of buildings that results in no more than a five (5) percent increase in total floor area and no more than a five (5) percent increase in impervious surface, provided that any additional buildings are located entirely

within an area defined by the footprints of approved structures plus twenty-five (25) feet extending in all directions. Unless the abutting property is located in a Town Center (TC), Mixed Used (MU), or Office/Institutional (OI) district such additional structures may not be located within fifty (50) feet of an exterior property line.

- (2) Relocation of recreation space or area, provided that the total amount of recreation space or area is not reduced and accessibility from affordable dwelling units is not negatively impacted.
 - (3) Reconfiguration or relocation of internal streets, sidewalks, trails, or parking areas provided that no additional encroachment or disturbance in the Resource Conservation District (RCD) is required.
 - (4) Addition of bicycle or pedestrian access points to a preexisting public right-of-way.
 - (5) Alteration of building design elements, as defined in NCGS 160D-702(b).
- (b) Notwithstanding, the following shall constitute a major modification to a rezoning plan and will require the filing of an application for approval of the major modification.
- (1) A change in the uses permitted or the density of overall development.
 - (2) A change of twenty (20) percent or more in the floor area approved by the town council, unless the proposed change is two thousand five hundred (2,500) square feet or less, whether such change is proposed through one (1) request or through multiple requests over an extended period of time.
 - (3) A change of ten (10) percent or more in the number of parking spaces approved by the town council, unless a change of ten (10) or fewer parking spaces is proposed, whether such change is proposed through one (1) request or through multiple requests over an extended period of time.
 - (4) A change in the size, location, or orientation of an impervious feature that decreases the width of a landscape buffer below the minimum applicable buffer width requirements.
 - (5) Relocation of bicycle/pedestrian or vehicular access points to public right-of-way by more than 50 feet from the approved location (to be measured from approved centerline to proposed centerline and, when appropriate, subject to approval by the North Carolina Department of Transportation); removal of bicycle/pedestrian or vehicular access points to public right-of-way; addition of vehicular access points to preexisting public rights-of-way.
 - (6) Relocation of structures to more than one hundred (100) feet from their approved location or to within fifty (50) feet of exterior property lines. For structures that are approved within fifty (50) feet of an exterior property line, relocation to more than one hundred (100) feet from their approved location or to a location that is more than fifteen (15) percent closer to an exterior property line.
 - (7) A change in a condition of town council approval."

Section 9. Article 4 Procedures, Section 4.4 Zoning Amendments is amended to renumber the existing Subsection 4.4.5 Procedures – All Other Conditional Zoning Districts.

"4.4.5 4.4.7 Procedures—All Other Conditional Zoning Districts."

Section 10. Article 4 Procedures, Section 4.8 Master Land Use Plan, Subsection 4.8.3(1)(3) is amended to read as follows:

"(3) If a master land use plan is approved for a tract of land and an application for a conditional zoning district is subsequently received, then the conditional zoning district shall be consistent with the approved master land use plan. The proposed conditional zoning district and any associated district-specific plan shall be considered pursuant to ~~4.4.5~~ 4.4.7."

Section 11. Article 5. Design and Development Standards, Section 5.5. Recreation, Subsection 5.5.2(a) is amended to read as follows:

"5.5.2. Minimum Recreation Area and Recreation Space.

(a) Residential subdivisions.

This section applies to any application for subdivision approval in the zoning districts enumerated below. The minimum size in square feet of a recreation area shall be derived by multiplying the gross land area of the development by the applicable ratio shown below:

Zoning district	Recreation area ratio
R-LD5	.040
R-LD1	.050
R-1A	.061
R-1	.071
R-2A	.095
R-2	.120
R-3	.170
R-4, 5, 6, R-CP-CZD and all other nonresidential zoning districts	.218

"

Section 12. Article 5. Design and Development Standards, Section 5.5 Recreation, Subsection 5.5.2(g) is amended to read as follows:

"(g) Multifamily dwelling units.

Active, improved space (either indoors or outside) shall be provided for the common active recreational use of residents of multifamily developments. For sites that abut or include areas designated as future greenways in the town's comprehensive plan, greenway project conceptual plans adopted by the council, and greenway project master plans adopted by the council; land dedicated for a public pedestrian and non-motorized vehicle easement or deeded to the town along the greenway may be substituted for required improved recreation space. The minimum size of such active recreation space shall be the number of square feet derived by multiplying gross land area of the development by the applicable ratio shown below.

Zoning districts	Recreation space ratio
TC-1, TC-2, TC-3	.120
CC, MU-V, MU-V-CZD	.046
N.C.	.039
OI-2	.046
OI-1	.046
I	.032
R-SS-CZD, R-CP-CZD, R-6, R-5	.050

R-4	.039
R-3	.032
R-2, R-2A, R-1	.025
R-1A	.022
R-LD1	.020
All Others	.015

Section 13. Article 5. Design and Development Standards, Section 5.6. Landscaping, screening and buffering, Subsection 5.6.2 Buffers required is amended to read as follows:

"5.6.2. Buffers required.

- (a) A buffer is a strip of land together with the screening required thereon. Except as otherwise specifically provided in this appendix, the type of buffer required between a proposed development and adjacent streets, land uses or zoning designations shall be as specified in subsection 5.6.6, Schedule of Required Buffers. Where the proposed development site and the adjacent land are both located within either town center district, no buffer shall be required.
- (b) Where the proposed development site is located in a Residential-Special Standards-Conditional zoning district, no buffer shall be required.
- (c) Where the proposed development site is located in a materials handling (MH) zoning district, a two hundred (200) foot Type "E" landscape buffer shall be required.
- (d) Width and screening specifications for each buffer type shall be detailed and illustrated in the design manual. Screening required within buffers is intended to provide separation of spaces without necessarily eliminating visual contact between the spaces, and may consist of existing vegetation, planted vegetation, a landscaped earth berm, a decorative wall, a wood fence, or a combination of the above. Any of the options specified in the design manual for the required buffer type shall satisfy the buffer requirements of this section.
- (e) Eating/drinking establishments and places of worship shall be separated by either a Type "A" buffer, or a screening device as provided in subsection 5.6.7.
- (f) Where the proposed development site is located in a Residential-Community Priority-Conditional Zoning District (R-CP-CZD), any multi-family or townhouse development of five (5) or more units and any non-residential uses shall be separated from adjacent off-site residential uses by a ten (10) foot Type "B" landscape buffer unless such off-site uses are in Town Center (TC), Office/Institutional (OI), or Mixed Use (MU) zoning districts. Upon a finding that site constraints make such a buffer impracticable, the town manager may waive the requirement for a buffer.

Section 14. Article 5. Design and Development Standards, Section 5.9. Parking and loading, Subsection 5.9.6(a) Applicability is amended to read as follows:

"(a) Applicability.

(1) New Construction.

- A. All new surface parking lots with more than ten (10) spaces shall provide parking lot landscaping in accordance with this subsection. Notwithstanding, for developments within a residential community priority conditional zoning district (R-CP-CZD), only new surface parking lots with more than twenty (20)

spaces shall provide parking lot landscaping in accordance with this subsection.

- B. Multiple platted lots contained on a single site plan, and any separate parking areas connecting with drive aisles, are considered a single parking area.

(2) *Additions.*

- A. An existing parking lot may be renovated or repaired without providing additional landscaping, provided there is no increase in the area of the parking lot.
- B. When an existing parking lot is increased in area, landscaping is required for the new parking area only.
- C. When an existing parking lot is increased in area by more than fifty (50) percent cumulatively, landscaping is required for both the existing parking lot and the new parking area.

- (3) *Demolition.* When fifty (50) percent or more of an existing parking lot is demolished and replaced by a new parking lot, landscaping is required for the new parking area. For the purposes of this section, demolition is defined as "disturbed area" (see Appendix A. Definitions)."

Section 15. Article 5. Design and Development Standards, Section 5.9 Parking and Loading, Subsection 5.9.6(c) Design Standards is amended to read as follows:

“(c) Design standards.

- (1) *Entrance Drives.* Entrance drives into parking facilities shall be bordered by a landscaped buffer strip a minimum of eight (8) feet in width, which shall be landscaped in accordance with town landscaping standards.

(2) *Surface Parking Lots.*

- A. *Foundation Buffer Strip.* Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a structure (exclusive of paved pedestrian and bicycle entrance ways or loading areas) by a landscaped buffer strip at least five (5) feet in width, which shall be landscaped in accordance with Town landscaping standards.

1. For developments within a Residential-Community Priority-Conditional Zoning District (R-CP-CZD), the required minimum width of landscaped buffer strips shall be an average of three (3) feet as measured along each building face for which such a buffer strip is required. Where such buffer strips are located adjacent to a wall that does not include dwelling unit windows, they may be substituted for paved pedestrian walkways that are otherwise in accordance with Town standards.

- B. *Perimeter Screening.* All surface parking lots (of any size) with frontage on any portion of a public street (not including an alley) shall be screened with the following:

1. A minimum five-foot wide, landscaped area with a continuous row of shrubs between the street and parking lot. Shrubs must be a minimum of eighteen (18) inches in height when planted and must reach a minimum size of thirty-six (36) inches in height within three (3) years of planting;
OR

2. A 36-inch wall may be substituted for the five-foot wide landscaped area with a continuous row of shrubs.
3. Breaks for pedestrian and vehicle access are permitted.
4. Perimeter screening may be installed below the level of the parking lot surface to allow for runoff capture if included as part of an approved stormwater management plan.

C. *Interior Islands.*

1. A landscaped interior island must be provided every ten (10) parking spaces in excess of twenty (20) spaces. Interior islands must be distributed evenly throughout the parking area. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees.
2. An interior island abutting a single row of parking spaces must be a minimum of eight (8) feet in width and one hundred fifty (150) square feet in area. Each island must include one (1) canopy tree unless the island is designed as a bioretention basin.
3. An interior island abutting a double row of parking spaces must be a minimum of eight (8) feet in width and three hundred (300) square feet in area. Each island must include two (2) canopy trees unless the island is designed as a bioretention basin.
4. Interior islands may be installed below the level of the parking lot surface to allow for runoff capture if included as part of an approved stormwater management plan.
5. If designed as a bioretention basin, interior islands must be ten (10) feet in width and must be planted with recommended vegetation for bioretention areas.
6. Landscaped interior islands are not required for surface parking areas in a Residential-Community Priority-Conditional Zoning District (R-CP-CZD).

D. *Median Islands.*

1. A landscaped median island must be provided between every six (6) single parking rows. Intervals may be expanded in order to preserve existing trees.
2. A landscaped median island shall be a minimum width of eight (8) feet, as measured from back of curb to back of curb.
3. Landscaped median islands may be installed below the level of the parking lot surface to allow for runoff capture if included as part of an approved stormwater management plan.
4. Any trees planted in landscaped median islands must be canopy trees unless the median is designed as a bioretention basin.
5. If designed as a bioretention basin, median islands must be ten (10) feet in width and must be planted with recommended vegetation for bioretention areas.

E. *Pedestrian Access.*

1. Well-marked, ADA-compliant pedestrian access must be provided.
2. Access perpendicular to the main entrance from the parking area should be provided, whenever possible,

3. Where a sidewalk is added to a median, additional median width equal to the sidewalk width must be provided.
- F. Trees. No parking space shall be farther than seventy-five (75) feet from the trunk of a canopy tree.
- G. Shade Structures. Shade structures are encouraged in parking facilities, included shade structures featuring solar panels. Since such structures also provide shading of parking spaces, the town manager may modify the tree spacing requirements of this subsection or the design manual in trade for shade structures in a parking lot.
- H. Parking Adjacent to Residential Zoning. Surface parking facilities and the ground level of parking structures must be screened from any adjacent residentially zoned property. Either as a component of, or in addition to any other underlying perimeter landscape buffer requirements, this screening must be provided by:
1. A continuous compact evergreen hedge at least three (3) feet in height that will reach a height of four (4) feet within three (3) years of planting; OR
 2. A screening fence or wall a minimum height of four (4) feet and no more than six (6) feet in height. The fence or wall must be compatible with the principal building in terms of texture, quality, material and color.
- I. Drive-Thru Screening.
1. Where drive-thru windows and lanes are permitted to be placed between a public street (not including an alley) or ground floor residential use and the associated building, the entire length of the drive-thru lane, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru must be screened.
 2. Screening must be a continuous compact evergreen hedge or a screening wall. At the time of installation, a hedge must be at least three (3) feet in height and reach a height of four (4) feet within three (3) years of planting. A screening wall must be a minimum height of four (4) feet. The wall must be compatible with the principal building in terms of texture, quality, material and color.”

Section 16. Article 5. Design and Development Standards, Section 5.9 Parking and Loading, Subsection 5.9.7 Minimum and Maximum Off-Street Parking Space Requirements is amended to add a new paragraph before the table to read as follows:

"5.9.7. Minimum and Maximum Off-Street Parking Space Requirements

The following minimum and maximum vehicular parking requirements shall apply for the appropriate use and zoning district. Vehicular parking requirements shall not apply for uses located within the Office/Institutional-3 or Office/Institutional-4 Districts.

A reduction of up to twenty (20) percent of the minimum number of required vehicular parking spaces may be permitted through the granting of a minor variance by the board of adjustment if, based on substantial evidence in the record of its proceedings, the board finds that compliance with the full minimum off-street vehicular parking space requirements of this section would necessitate the removal of or would seriously endanger significant specimen trees on or adjacent to the zoning lot on which such parking is required.

For all residential uses located in a Residential-Community Priority-Conditional Zoning District (R-CP-CZD), the minimum number of vehicular parking spaces required per dwelling unit shall be reduced by twenty (20) percent."

Section 17. Appendix A. Definitions is hereby amended to add a new item immediately following the definition for "Communications, wireless facilities" to read as follows:

"

Community Priority Rezoning Plan: A plan or schematic diagram that depicts the approximate size, location, and relationship of the principal elements of the proposed development such as uses; intensity; buildings, parking areas and loading areas; access and circulation; open space; environmental constraints; and the development envelope. Not included in the term development envelope are below ground utility lines, above-ground stormwater management areas, landscape and natural areas, and other non-impervious features.

"

Section 18. This ordinance is effective upon enactment.

This the 16th day of November, 2022.