



OPEN THE PUBLIC HEARING: LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENTS - PROPOSED CHANGES TO SECTION 3.6.2 HISTORIC DISTRICTS RELATED TO CERTIFICATE OF APPROPRIATENESS REQUIRED AND REVIEW CRITERIA AND SECTION 8.4 HISTORIC DISTRICT COMMISSION.

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
Colleen Willger, Director
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AMENDMENT REQUEST	DATE	APPLICANT
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.	March 24, 2021	Planning Department
STAFF'S RECOMMENDATION		
That the Council open the public hearing regarding the Land Use Management Ordinance (LUMO) text amendment, receive public comment, and consider enacting the Ordinance at the April 21, 2021 Council meeting.		
<p>PROCESS</p> <p>The item before the Council is approval of a Land Use Management Ordinance (LUMO) 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:</p> <ol style="list-style-type: none"> To correct a manifest error in the chapter; or Because of changed or changing conditions in a particular area or in the jurisdiction generally; or To achieve the purposes of the Comprehensive Plan. <p>Changes in State Law now require "Design Guidelines" to be referred to as "Design Standards". Staff is proposing to make these and other amendments to clarify the role and decision-making process of the Historic District Commission.</p>	<p>DECISION POINTS</p> <ul style="list-style-type: none"> Amend LUMO 3.6.2(b)(4) to reference the "Design Principles and Standards" rather than "Design Guidelines" and clarify staff's ability to approve Certificates of Appropriateness (COA) applications and COA amendments related to minor works as delegated to staff by the HDC. The current A through J criteria outlined in LUMO 3.6.2(e)(4) predate the adoption of the 2001 Design Guidelines. The HDC and applicants have consistently expressed concern that the A through J criteria do not align with the Design Guidelines and should be revised or removed. At the February 9, 2021, HDC meeting, the Commission requested that the amendments to the LUMO utilize the language provided in the State's Model Historic Preservation Ordinance ("Model Ordinance").¹ Staff has reviewed the language and incorporated it into draft Ordinance A. During the Public Information Meeting on February 25, staff heard interest in specifying in the LUMO that the HDC does not have landscape review authority to review vegetation and other plantings. 	
Background		
<p>In 2017, the Town Council Committee on Boards and Commissions considered ways to improve the Certificate of Appropriateness (COA) process. The Committee developed a set of recommendations for Council consideration that included possible LUMO text amendments. (See Town Council Meeting Materials – October 18, 2017²)</p> <p>From 2017 through 2019, the HDC worked with the Council Committee and Planning Department staff, advocating for LUMO text amendments that would better align the LUMO with the State Historic Preservation Office's (SHPO) model ordinance³. On September 23, 2019, staff presented an analysis of recommendations from the HDC, Council Committee, and staff to the Council Committee, and the Council Committee made a recommendation to move forward with seven text amendments. These amendments were brought forward to Council on October 15, 2019⁴ and included staff analysis of the text amendments requested by the HDC. Council</p>		

¹ <https://files.nc.gov/ncdcr/historic-preservation-office/CLG/ModelPreservationCommissionOrdinance.pdf>

² https://chapelhill.granicus.com/GeneratedAgendaViewer.php?view_id=21&clip_id=3313

³³ <https://files.nc.gov/ncdcr/historic-preservation-office/CLG/ModelPreservationCommissionOrdinance.pdf>

⁴ <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4151867&GUID=0B8A9AF8-5AC9-4DB1-9581-4788EF63CFD9>

enacted the text amendments on [November 20, 2019](#)⁵ with the understanding that additional changes to the LUMO would be made when the Design Guidelines Rewrite Project was completed.

In 2019, the Town received a Certified Local Government (CLG) grant from the State Historic Preservation Office (SHPO) to fund the Design Guidelines Rewrite Project. Completion of the project was anticipated to be August 2020; however, due to the COVID-19 pandemic, the Town received an extension from SHPO through February 15, 2021. The HDC adopted the Design Principles and Standards on March 18, 2021.

TEXT AMENDMENT OVERVIEW

Legislative updates in Chapter 160D of the North Carolina General Statutes provide that the Historic District Commission shall “adopt principles and standards to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition.” As part of the revisions to the 2001 Design Guidelines, staff has worked to adapt the Design Guidelines that comply with the Chapter 160D changes. Staff proposes amending the LUMO to refer to the Design Guidelines as “Design Principles and Standards.”

Text amendments to the A through J criteria are in response to a recommendation from the Council Committee on Boards and Commissions to improve HDC procedures and provide clarity to decisions of the HDC as well as the feedback staff has received from the HDC and community members. The text amendments would eliminate the A through J criteria and require HDC decisions to be based on the Design Standards.

The HDC recommended the text amendments reflect the language proposed in the SHPO’s model ordinance regarding applications and required procedures and staff has incorporated the language into the amendments to LUMO 3.6.2(e)(4).

ATTACHMENTS

1. Text Amendment Summary
2. Draft Staff Presentation
3. Resolution A, Resolution of Consistency
4. Ordinance A (Enactment of Land Use Management Ordinance Text Amendment)
5. Resolution B (Deny Land Use Management Ordinance Text Amendment)
6. Historic District Commission Recommendation
7. Planning Commission Recommendation

⁵ <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4244240&GUID=7CF6001D-D816-4A87-B7D2-6F8565313B64>



PROPOSED CHANGES: TEXT AMENDMENTS TO THE LAND USE MANAGEMENT ORDINANCE ARTICLES 3 AND 8

The following is a summary of the proposed text amendments to amend the LUMO to reflect the Design Principles and Standards.

1. Section 3.6.2 Historic Districts

- Amend the text in Section 3.6.2 Historic Districts, subsection (b) Certificate of appropriateness required to replace "Historic District Design Guidelines" with "Design Principles and Standards" as well as reference staff's ability to approve minor works as authorized by the Historic District Commission:

(4) A certificate of appropriateness application and amendments to a certificate of appropriateness application may be reviewed and approved by the town manager according to specific review criteria contained in state law and guidelines Design Principles and Standards approved by the commission when the application is determined to involve minor work. Minor works are defined as those exterior changes that do not involve any substantial alterations, and do not involve additions or removals that could impair the integrity of the property and/or the district as a whole. Such minor works shall be limited to those listed in the Commission's Rules of Procedure Design Principles and Standards, or a successor document. No application involving a minor work may be denied without the formal action of the commission. Ordinance requirements for notification of affected property owners must be met for all applications.

- Amend the text in Section 3.6.2 Historic Districts, subsection (e) review criteria to align with the State Historic Preservation Office's Model Preservation Ordinance, specify that the Historic District Commission (HDC) does not have landscape authority, and eliminate the A through J review criteria:

1) In considering an application for a certificate of appropriateness, the review shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure, as informed by the Historic District Design Guidelines. 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, 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.

~~(3) The commission, using the criteria below, shall make findings of fact indicating whether the application is or is not congruous with the historic aspects of the historic district. The commission, in its written decision, shall~~

~~reference testimony or documents in the record of the hearing as appropriate and necessary in order to inform all parties of the basis of these findings of fact.~~

~~(4) The following criteria shall be considered, when relevant, by the commission in reviewing applications for a certificate of appropriateness:~~

- ~~A. The height of the building in relation to the average height of the nearest adjacent and opposite buildings.~~
- ~~B. The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.~~
- ~~C. Exterior construction materials, including texture and pattern.~~
- ~~D. Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.~~
- ~~E. Roof shapes, forms, and materials.~~
- ~~F. Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.~~
- ~~G. General form and proportions of buildings and structures.~~
- ~~H. Appurtenant fixtures and other features such as lighting.~~
- ~~I. Structural conditions and soundness.~~
- ~~J. Architectural scale.~~

2. Section 8.4.6 Powers of the Commission

Amend the text in Section 8.4.6 Powers of the Commission to replace "guidelines" with "principles and standards:"

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 19, Part 3C 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 ~~guidelines~~ 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 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.