

Staff Memorandum

Planning Commission 2-6-2018



Staff:

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Department:

Planning & Development Services
Planning & Development Services

Subject: Revisions to LUMO Text Amendment for Conditional Zoning

Overview: On November 29, 2017, the Town Council amended the Land Use Management Ordinance (LUMO) to include the expanded use of Conditional Zoning. The effective date for those amendments is April 1, 2018.

Since November of 2017, additional revisions are necessary to clarify certain amendments and to clarify the link between the Town's Land Use Plan and conditional zoning district applications.

This amendment to the Land Use Management Ordinance, if enacted, would not rezone any particular parcel of land in the Town.

Recommendations:



- That the Planning Commission consider the amendments to the LUMO related to conditional zoning and provide a recommendation to the Council.
- That the Planning Commission consider the Resolution of Consistency and provide a recommendation to the Council.

Key Issue:

- Should the LUMO be amended to remove the encouragement to meet the Architecture 2030 Challenge and replace it with a request to the Town Council to adopt a Resolution to encourage compliance with such?

Proposed Amendments

1. In November of 2017, when the Planning Commission considered the proposed amendments to expand the use of conditional zoning in the Land Use Management Ordinance, the Planning Commission recommended adoption under certain conditions. Those conditions included encouraging adherence to the most current AIA green building standards. As a result, the following language was included in the Ordinance amending the Land Use Management Ordinance:

One goal of the Town's Comprehensive Plan is to promote energy conservation through building design. Therefore, applicants are encouraged to meet the Architecture 2030 Challenge guidelines as amended.

The Town Attorney feels that that language is better suited for a companion policy. As a result, the Ordinance before the Planning Commission removes the above language.

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To address the Planning Commission's concerns regarding the promotion of energy conservation, the Planning Commission could request that the Town Council consider a Resolution similar to the current Resolutions that govern special use permits. (In 2001 and again in 2007, the Town Council adopted Resolutions regarding energy conservation. Those Resolutions are attached.) Such a Resolution would apply to conditional zoning applications and could specify that all applicants seeking approval of a conditional zoning district are encouraged to demonstrate compliance with the AIA 2030 CHALLENGE. Such a Resolution is also attached for your review.

2. In order to clarify that proposed conditional zoning districts must conform to the Land Use Plan in the Comprehensive Plan, two LUMO amendments are proposed.
 - a) The first amendment precludes establishment of a conditional zoning district, unless such a district conforms to the Land Use Plan in the Comprehensive Plan.
 - b) Because the LUMO does not currently permit an applicant to request an amendment to the Comprehensive Plan, a proposed amendment permits an applicant to do so.
3. The final amendment clarifies that only in the Innovative, Light Industrial District may the Council act at the same meeting as the initial public hearing.

Amendments to the LUMO

Section 4.4 of the Land Use Management Ordinance states as follows:

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the town is it intended that, this appendix shall not be amended except:

- a) To correct a manifest error in the appendix, or
- b) Because of changed or changing conditions in a particular area or in the jurisdiction generally, or
- c) To achieve the purposes of the comprehensive plan.

It is further intended that, if amended, this appendix be amended only as reasonably necessary to the promotion of the public health, safety, or general welfare, and in conformance with the comprehensive plan.

For the following amendments, staff asserts that the proposed amendments correct an error in the appendix:

1. The amendment removing the reference to Architecture 2030 Challenge guidelines; and,

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2. The amendment clarifying that only in the Innovative, Light Industrial District may the Council act at the same meeting as the initial public hearing.

For the remaining amendments that require conditional zoning districts to conform to the Land Use Plan and permit an applicant to request an amendment to the Land Use Plan, these amendments achieve the purposes of *Chapel Hill 2020*. *Chapel Hill 2020* states:

The focus of the Chapel Hill 2020 comprehensive plan is to map how the community can balance responding to change with protecting what the community values. The community's goal is to purposefully identify and seize opportunities, respond to and correct negative trends, and embrace positive change while preserving the community's fundamental character, values, and identity.

Requiring conditional zoning districts to conform to the Land Use Plan but also permitting that Plan to be amended allows the Town to "balance responding to change with protecting what the community values." These proposed amendments also provide an intentional opportunity for the Town to "purposefully identify and seize opportunities" and to think beyond the boundaries of the proposed conditional zoning district to think critically about how the proposal impacts the Town as a whole.

In terms of the conformance with the comprehensive plan, amending the LUMO to provide for thoughtful changes to the Land Use Plan would be in conformance with the following goals found in:

Theme 4: Good Places, New Spaces:

- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (GPNS.3)
- A community that welcomes and supports change and creativity (GPNS.6)

Theme 1: A Place for Everyone

- A community of high civic engagement and participation

Conclusion

The Planning Commission has an opportunity this evening to receive public input, to ask questions, and to provide a recommendation to the Town Council.

AN ORDINANCE AMENDING ARTICLES 3 AND 4 OF THE LAND USE MANAGEMENT ORDINANCE RELATED TO CONDITIONAL ZONING (2018-X-X)

Section 1 – Article 3. Section 3.4.3 Conditional Districts is hereby amended to read as follows:

3.4.3 Conditional zoning districts, except the Innovative, Light Industrial Conditional Zoning District established in 3.4.4, parallel each of the following general use zoning districts:

R-5
R-6
TC-1
TC-2
TC-3
CC
N.
C.
OI
-3
OI-2
OI-1
MU-V

Except as otherwise provided in the Innovative, Light Industrial Conditional Zoning District (LI-CZD), development in a conditional zoning district is subject to the same standards applicable to the parallel general use zoning district including overlay district regulations, as modified by the approved district-specific plans and conditions:

- a) That are proposed or agreed to by the owner(s) of the subject land;
- b) That incorporate any proposed modifications to use, intensity, or development standards applicable in the parallel general use district; and,
- c) 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.

~~One goal of the Town's Comprehensive Plan is to promote energy conservation through building design. Therefore, applicants are encouraged to meet the Architecture 2030 Challenge guidelines as amended.~~

Section 2 – Article 3. Section 3.1.4 is hereby amended to read as follows:

Conditional Zoning Districts, other than the LI-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 conforms to the Land Use Plan in the Comprehensive Plan.** Conditional Zoning Districts incorporate district-specific plans and conditions agreed to by the town and the owner(s) of the rezoning land. Conditional Zoning Districts are designated with the suffix CZD on the zoning atlas.

Section 3 – Division Section 4.2 (b) is hereby amended to read as follows:

Purpose statement: The purpose of this section is to prescribe uniform procedures for the establishment and amendment of the comprehensive plan.

- a) *Process.* The town council shall adopt and maintain a comprehensive plan for Chapel Hill. Amendments to the comprehensive plan, or a new comprehensive plan, shall be prepared by the planning commission with assistance from the town manager and approved, modified, or rejected by the town council. The comprehensive plan shall be used as a guide for decision-making.
- b) *Schedule for updates.* The comprehensive plan may be amended at the discretion of the town council. **“When applications for a conditional zoning district fail to conform to the Land Use Plan in the Comprehensive Plan, the applicant may request an amendment to said Land Use Plan from the town council.”**

Section 4 – Division 4.4.3 (e) is hereby amended to read as follows:

(e) *Town manager's report to town council.*

- (1) After completion of the initial public hearing, the town manager and town attorney shall review the record of the public hearing and the town manager shall 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 public 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.
- ~~(3) Subdivisions (e)(1) and (e)(2) shall not be a requirement of a rezoning application to an Innovative, Light Industrial CZD. The town council, at its own discretion, may act upon a rezoning application to an Innovative, Light Industrial CZD at the~~

~~same meeting at which it conducts an initial public hearing on the application.~~

“Notwithstanding subsection (e)(1), the town council may act upon a rezoning application to an Innovative, Light Industrial CZD at the same meeting at which it conducts an initial public hearing on the application, in which case a report from the town manager pursuant to subsection (e)(1) shall not be required.”

Section 15 - This Ordinance shall take effect on April 1, 2018

This the _____ day of March, 2018.

A RESOLUTION STATING THE COUNCIL’S EXPECTATIONS FOR MAXIMIZING POTENTIAL FOR ENERGY CONSERVATION AS A COMPONENT OF CONDITIONAL ZONING APPLICATIONS (2018-X-X/R-X)

WHEREAS, Chapel Hill’s Comprehensive Plan, *Chapel Hill 2020*, contains the following language: “Reduce the carbon footprint of all Town -owned or managed services and properties; require that all new development meets standards; and support residents in minimizing their personal footprints (NOC.7)”

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel that applicants seeking approval of a conditional zoning district are encouraged to demonstrate compliance with the AIA 2030 CHALLENGE, as amended.

This the _____ day of March, 2018.

A RESOLUTION STATING THE COUNCIL'S EXPECTATIONS FOR MAXIMIZING POTENTIAL FOR ENERGY CONSERVATION AS A COMPONENT OF CONDITIONAL USE REZONING APPLICATIONS (2001-11-12/R-20)

WHEREAS, Chapel Hill's Comprehensive Plan contains the following language: "The Town shall encourage site planning, landscaping, and structure design which maximize the potential for energy conservation by reducing the demand for artificial heating, cooling, ventilation, and lighting, and facilitating the use of solar and other energy resources";

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it is the expectation of the Council that applicants seeking approval of conditional use rezoning with accompanying special use permits will demonstrate site planning, landscaping, and structure design which maximize the potential for energy conservation and use of renewable energy by reducing the demand for artificial heating, cooling, ventilation, and lighting, and facilitating the use of solar and other energy resources.

This the 12th day of November, 2001.

A RESOLUTION STATING THE COUNCIL'S EXPECTATIONS FOR ENERGY EFFICIENCY AND AN ENERGY MANAGEMENT PLAN AS ELEMENTS OF REZONING APPLICATIONS WITH ACCOMPANYING SPECIAL USE PERMITS (2007-04-23/R-9)

WHEREAS, Chapel Hill's Comprehensive Plan contains the following language: The Town shall encourage site planning, landscaping, and structure design which maximize the potential for energy conservation by reducing the demand for artificial heating, cooling, ventilation, and lighting, and facilitating the use of solar and other energy resources; and

WHEREAS, the Town of Chapel Hill has set a goal of reducing carbon emissions attributed to the municipal, commercial, residential, and institutional sectors of the Town by 60 percent by 2050; and

WHEREAS, developments regularly come before the Town Council seeking approval, but without an energy efficiency element or a demonstrated intent to utilize sustainable energy, currently defined as solar, wind, hydroelectric, and biofuels;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it is the expectation of the Council that applicants seeking approval of conditional use rezoning applications with accompanying Special Use Permit applications will incorporate a 20 percent more energy efficient feature into their plans, relative to the energy efficiency standard of the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), as amended and in effect at the time of building permit issuance.

BE IT FURTHER RESOLVED that other comparable standards generally recognized as applicable to building energy consumption, as amended and in effect at the time of building permit issuance, may be used by applicants when incorporating the 20 percent more energy efficient feature into their plans.

BE IT FURTHER RESOLVED that it is the expectation of the Council that applicants include an Energy Management Plan in their Special Use Permit applications, to include consideration of utilizing sustainable energy, currently defined as solar, wind, biofuels, and hydroelectric power, in the proposed development.

BE IT FURTHER RESOLVED that it is the expectation of the Council that the Energy Management Plan would consider the purchase of carbon offset credits and green power production through coordination with the NC Greenpower program.

BE IT FURTHER RESOLVED that the Energy Management Plan shall provide for an acceptable level of increased energy efficiency that ensures indoor air quality and adequate access to natural lighting, and allows for the proposed utilization of sustainable energy in a development.

This the 23rd day of April, 2007.

RESOLUTION A
(Resolution of Consistency)

A RESOLUTION FINDING THAT PROPOSED AMENDMENTS TO ARTICLES 3 AND 4 OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE TO MODIFY CONDITIONAL ZONING PROVISIONS ARE CONSISTENT WITH THE COMPREHENSIVE PLAN (2018-X11-29/R-#)

WHEREAS, the Council of the Town of Chapel Hill adopted an Ordinance on November 29, 2017 amending the Land Use Management Ordinance to expand the use of Conditional Zoning; and

WHEREAS, the Planning Commission reviewed the draft text amendments to modify the Conditional Zoning provisions in the Land Use Management Ordinance on February 6, 2018 and recommended that the Council _____ at its meeting on February _____ 2018; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposal to amend the Land Use Management Ordinance to modify Conditional Zoning provisions and 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, as explained by, but not limited to, the following goals of the Comprehensive Plan:

- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (GPNS.3)
- A community that welcomes and supports change and creativity (GPNS.6)
- A community of high civic engagement and participation (PFE.5)

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds the proposed Land Use Management Text Amendment to be reasonable, in the public interest, and consistent with the Town's Comprehensive Plan.

This the _____ day of March, 2018.