

**ORDINANCE A**

(Approving the Land Use Management Ordinance Text Amendment)

**AN ORDINANCE AMENDING SECTIONS 3.4 AND 3.11 OF THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE TO ENCOURAGE NON-RESIDENTIAL DEVELOPMENT AND ADDRESS BUILDING SIZE IN THE BLUE HILL DISTRICT (2018-06-27/O-5)**

WHEREAS, on May 12, 2014, the Town Council amended the Land Use Management Ordinance to establish Form District Regulations for the Ephesus Church Road/Fordham Boulevard area of Chapel Hill; and

WHEREAS, this area of Chapel Hill was rebranded as the Blue Hill District in August 2017 based on a decision of the area's property owners; and

WHEREAS, the Council has continued to monitor performance measures in the Blue Hill District and has responded to community concerns by working to improve the Form District Regulations; and

WHEREAS, on March 14, 2018, Council Members petitioned the Mayor and Town Manager to consider solutions in a timely manner for the Blue Hill District that would address community interests including increasing non-residential development, accomplishing the existing goal of 300 new affordable housing units, and addressing building size and massing concerns; and

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to respond to the interests outlined in the petition; and

WHEREAS, the Council finds that the redevelopment of the Ephesus Church Road/Fordham Boulevard area is appropriate and especially significant to the preservation of the visual character of the Town and is one where a Special Appearance District is appropriate; and

WHEREAS, upon consideration the Council finds that the amendment is reasonable and is warranted, because of changed or changing conditions in the area or in the jurisdiction generally, and in order to achieve the purposes of the Comprehensive Plan including but not limited to:

- Family-friendly, accessible exterior and interior places throughout the town for a variety of active uses (Goal A Place for Everyone.1)
- A welcoming and friendly community that provides all people with access to opportunities (Goal A Place for Everyone.4)
- Foster success of local businesses (Goal Community Prosperity and Engagement.2)
- Promote a safe, vibrant, and connected (physical and person) community (Goal Community Prosperity and Engagement.3)
- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal Good Places New Spaces.3)
- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Goal Good Places, New Spaces.5)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Goal Good Places New Spaces.8).

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Land Use Management Ordinance, Appendix A of the Town Code, is amended as follows:

**SECTION 1**

**Sec. 3.4.3 Conditional Zoning Districts** is hereby revised to read as follows:

“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 **or subdistricts:**

- R-5
- R-6
- TC-1
- TC-2
- TC-3
- CC
- N.C.
- OI-3
- OI-2
- OI-1
- MU-V
- WR-3**
- WR-7**
- WX-5**
- WX-7**

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 **or subdistrict** 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 **or subdistrict**; 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**

**Sec. 3.11.2. District Character, Subsection 3.11.2.4. Walkable Mixed Use (WX-5 and WX-7), Subsection 3. Mass** is hereby revised to read as follows:

"Building Height		
(A)	Building height (max)	
	-WX-7	7 stories, not to exceed 90'
	-WX-5	5 stories, not to exceed 60'
(B)	Building height for principal structures	2 stories*
Mass Variation		
(C)	Average floor plate area (max) above 3 <sup>rd</sup> floor	
	- 3 story buildings or less	
	- 4 story buildings or greater	70% of floor plate area of third floor, with no floor plate exceeding 80% of third floor area**
	Buildings 4 stories or greater shall meet either the step back or module offset standard below	
(D)	Building step back above 2 <sup>nd</sup> or 3 <sup>rd</sup> floor (min)	10' step back above 2 <sup>nd</sup> or 3 <sup>rd</sup> floor
(E)	Module offset	
	- Average module width (max)	80'
	- Depth of offset (min)	6'
	-Width of offset (min)	12'
Story Height		
(F)	Ground story height, floor to ceiling (min)	
	- Residential	9'
	- Nonresidential	13'
(G)	Upper story height, floor to ceiling (min)	9'
(H) Ground Floor Elevation		
	- Residential (min/max)	2' / 4'
	- Nonresidential (min/max)	0' / 2'

\*The second story shall be at least 2/3rds the floor area of the first story

**\*\*Greater floor plate area is permitted above the 3<sup>rd</sup> floor for a building that includes non-residential uses, subject to provision of a 20' building stepback, as described in 3.11.2.7.T"**

### **SECTION 3**

**Sec. 3.11.2. District Character, Subsection 3.11.2.7. Measurements and Exceptions, Subsection G. Recreation Space, subsections 1 and 4** are hereby revised to read as follows:

"1. *In general.* Active, improved **outdoor** space (~~either indoors or outside~~) must be provided for common active recreational use by residents of multifamily or mixed use developments."

"4. *Standards.*

a. The minimum size of active recreation space is the number of square feet derived by multiplying gross land area of the development by the applicable ratio shown for the zoning district and building height. Where a development contains residential and nonresidential uses, this standard applies only to the residential portion of the building. The land area used for applying the ratio described above is calculated based on the proportion of residential floor area.

~~b. Rooftop recreation space must be separated by at least one (1) floor above or below rooftop mechanical/HVAC units. The town manager may waive this requirement where the applicant provides evidence that noise and heat levels will be reasonably mitigated through the use of barriers, special equipment designed for low noise and heat levels, or other means sufficient to allow use of the roof top space for passive or active recreation purposes.~~

**b. Recreation space not provided as a Fee or Greenway Alternative shall be provided on-site at ground level, at the perimeter lot line of the site.**

**c. Recreation space shall be unobstructed above by any building elements. Canopies, coverings, or other roofs incidental to the intended use or purpose of the recreation space may be considered as unobstructed above.**

**d. A pedestrian connection shall be provided between a recreation space and an adjoining public sidewalk or greenway.**

**e. A pedestrian connection shall be provided between a recreation space and at least one area provided for outdoor amenity space."**

### **SECTION 4**

**Sec. 3.11.2. District Character, Subsection 3.11.2.7. Measurements and Exceptions, Subsection T. Mass Variation** is hereby revised to read as follows:

"T. *Mass Variation.* Mass variation is the way the form and shape of a building changes to establish a sense of human scale. This may be achieved by changing the heights of different parts of a building and by creating offsets in wall planes to express individual building modules. All buildings four stories in height or greater shall have a reduced upper story floor plate area as specified for the Subdistrict. Further, building facades of buildings four stories in height or greater along all frontages designated by Type A, B, C or E shall meet either the building step back requirement or the module offset requirement, as specified for the Subdistrict. A building three stories in height or less is not subject to the above. Frontage designations are as shown on the Regulating Plan (Section 3.11.2.2) or assigned by the Town Manager.

1. *Upper Story Floor Plate Area.* The maximum upper story floor plate area shall be based on the area measured for the third story and applies at the fourth story and above. Where multiple stories are subject to the floor plate area requirement, both an average upper story and maximum upper story floor plate area apply.
  - a. Bonus. An upper story bonus is permitted for a building that includes a non-residential use as listed in the Permitted Use Table under 3.11.3.4. For each square foot of non-residential use provided, the floor plate area of an upper story may increase by one (1) square foot in excess of the average upper story and maximum upper story floor plate, subject to provision of a 20' building setback in accordance with Sec. 3.11.2.7.T.2.c.**
2. *Building Step Back.* The building step back shall be measured as the horizontal change in the building wall plane, perpendicular to the applicable frontage or property line.
  - a. In addition to applicable frontages, a 10' building step back above the second or third floor is also required for buildings four stories or greater at the boundary of the Form District.
  - b. A 20' building step back above the second or third floor is required for the primary street frontage of a building that utilizes an upper story bonus in accordance with Sec. 3.11.2.7.T.1.a. A building façade located outside of the build-to zone remains subject to this requirement.**
  - ~~b.c.~~ A building step back is not required where a street-facing façade is located outside of the build-to zone **and is not the primary frontage of a building that utilizes an upper story bonus**, or where a building façade facing the Form District boundary is located more than 20' from the boundary."

**SECTION 5**

**Sec. 3.11.3. Use Requirements, Subsection 3.11.3.4. Permitted Use Table** is hereby revised to read as follows:

"Uses permitted by subdistrict are shown below. Broad use categories have been established in order to regulate a variety of similar uses and are defined in Section 3.11.3.5. Customary accessory and temporary categories, as determined by the town manager, are permitted in the Form Districts, including, but not limited to, home occupations, food trucks and trailers, and outdoor seasonal sales, subject to issuance of a Zoning Compliance Permit.

"PERMITTED USES	WR-3	WR-7	WX-5	WX-7	Def./Stds.
<b>Residential Uses</b>					
Household living, as listed below:					Sec. 3.11.3.5.A
Detached living	—	—	—	—	Sec. 3.11.3.5.A.1.a
Attached living	P	P	P <b>L</b>	P <b>L</b>	Sec. 3.11.3.5.A.1.b
Multifamily living	P	P	P <b>L</b>	P <b>L</b>	Sec. 3.11.3.5.A.1.c
Group living	—	P	P <b>L</b>	P <b>L</b>	Sec. 3.11.3.5.A.2
Social service living	—	—	S	S	Sec. 3.11.3.5.A.3

Public Uses					
Civic/Place of Worship	P	P	P	P	Sec. 3.11.3.5.B.1
Parks & open space	P	P	P	P	Sec. 3.11.3.5.B.2
Utilities, minor	P	P	P	P	Sec. 3.11.3.5.B.3
Utilities, major	S	S	S	S	Sec. 3.11.3.5.B.4
Commercial Uses					
Bank, except as listed below:	--	--	P	P	
Drive-thru	--	--	S	S	Sec. 3.11.4.1.F
Commercial parking	--	--	S	S	Sec. 3.11.3.5.C.1
Day care	--	--	P	P	Sec. 3.11.3.5.C.2
Indoor recreation	--	--	P	P	Sec. 3.11.3.5.C.3
Medical	--	--	P	P	Sec. 3.11.3.5.C.4
Office	--	--	P	P	Sec. 3.11.3.5.C.5
Outdoor recreation	--	--	--	--	Sec. 3.11.3.5.C.6
Overnight lodging	--	--	P	P	Sec. 3.11.3.5.C.7
Personal service	--	--	P	P	Sec. 3.11.3.5.C.8
Restaurant/bar, except as listed below:	--	--	P	P	Sec. 3.11.3.5.C.9
Drive-thru	--	--	S	S	Sec. 3.11.4.1.F
Retail sales, except as listed below:	--	--	P	P	Sec. 3.11.3.5.C.10
Drive-thru	--	--	S	S	Sec. 3.11.4.1.F
Fuel sales	--	--	P	P	Sec. 3.11.3.5.C.10.a
Vehicle sales/service	--	--	P	P	Sec. 3.11.3.5.C.11
Industrial Uses					
Light industrial	—	—	—	—	Sec. 3.11.3.5.D.1
Self-service storage	—	—	—	—	Sec. 3.11.3.5.D.2
Warehouse & distribution	—	—	—	—	Sec. 3.11.3.5.D.3
Waste-related service	—	—	—	—	Sec. 3.11.3.5.D.4
Heavy industrial	—	—	—	—	Sec. 3.11.3.5.D.5
Open Uses					
Agriculture, except as listed below:	—	—	—	—	Sec. 3.11.3.5.E.1
Community garden	P	P	P	P	Sec. 3.11.3.5.E.1.a
Resource extraction	—	—	—	—	Sec. 3.11.3.5.E.2

KEY: P = Use permitted      — = Use not permitted

S = Use permitted following Town Council approval of Special Use Permit

**L = Limited use (refer to section 3.11.3.5.A.4.)"**

## **SECTION 6**

**Sec. 3.11.3. Use Requirements, Subsection 3.11.3.5. Use Categories, Subsection A. Residential Uses** is hereby revised to insert a new subsection 4 as follows:

**"4. Limited Use. Residential uses in the WX-5 and WX-7 subdistricts must include a non-residential use as part of the same application, in order to accomplish the Form District intent for a mixture of uses. For purposes of this section, a non-residential use includes any use listed in the Permitted Use Table (Sec. 3.11.3.4) that is not listed in the residential**

**use category. To satisfy this requirement, the application must demonstrate at least one of the following:**

- a. **Mixed Use Building. Where each building contains a vertical mix of uses, a minimum of 10% of the building floor area must contain a non-residential use. A certificate of occupancy must be issued for at least 50% of the non-residential floor area prior to issuance of a certificate of occupancy for more than 90% of the residential floor area.**
- b. **Mixed Use Site. A site with multiple buildings may include buildings with a single use, so long as a minimum of 15% of the total floor area for the site contains a non-residential use.**
- c. **Phased Mixed Use Site. A build-out plan for phased development, provided in accordance with Sec. 3.11.4.7.F, may define different portions of the site for residential and non-residential uses. A minimum of 25% of the net land area for the site must be dedicated for non-residential use in the build-out plan. Approval of the build-out plan constitutes approval of uses for the site. The size and design of buildings in a future phase are subject to review of a separate Form District Permit.**
- d. **Residential Alternative. An application not meeting any of the options above may be permitted following Town Council approval of a Special Use Permit.**

## **SECTION 7**

This ordinance shall be effective upon enactment; provided however that any development application for the property associated with Elliott Road Extension, currently known as Park Apartments, shall be subject to the Land Use Management Ordinance in effect immediately prior to June 27, 2018, in accordance with and as further described and identified in Town Council resolution 2018-04-25/R-10.

This the 27th day of June, 2018.