

ORDINANCE A

(Enacting the Land Use Management Ordinance Text Amendment proposal)

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE SECTION 3.6.2 HISTORIC DISTRICTS RELATED TO REVIEW CRITERIA AND SECTION 8.4 HISTORIC DISTRICT COMMISSION (2021-XX-XX/O-#)

WHEREAS, 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;” and

WHEREAS, the A through J review criteria outlined in Land Use Management Ordinance (LUMO) 3.6.2(e)(4) predate the adoption of the 2001 *Design Guidelines for the Chapel Hill Historic Districts* (“*Design Guidelines*”); and

WHEREAS, on September 23, 2019, Planning Department staff provided a recommendation to the Council Committee on Boards & Commission to amend the LUMO following the adoption of the Design Principles and Standards to provide greater clarity on the legal basis for application of the Design Principles and Standards in the Commission’s review of Certificate of Appropriateness (COA) applications; and

WHEREAS, the Historic District Commission adopted the Design Principles & Standards on ____ and the A through J criteria do not reflect the guidance provided in this document; and

WHEREAS, the Historic District Commission reviewed the text amendments to the Land Use Management Ordinance Article 3, Section 3.6.2 and Article 8, Section 8.4 on _____ and recommended that the Council enact the text amendments; and

WHEREAS, the Planning Commission reviewed the text amendments to Land Use Management Ordinance Article 3, Section 3.6.2 and Article 8, Section 8.4 on _____ and recommended that the Council enact the text amendments; and

WHEREAS, the Council called a Public Hearing on ____ to amend Article 3, Sections 3.6.2 of the Land Use Management Ordinance as it relates to the Historic District Commission’s Review Criteria applied to Certificates of Appropriateness application and Article 8, Section 8.4 Historic District Commission; and

WHEREAS, the Council continued and held that public hearing on _____, receiving comments through 11:59 PM on _____, and closed the public hearing at that point; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) Article 3, Section 3.6.2 related to Historic District Commission’s Review Criteria applied to Certificates of Appropriateness application and Article 8 Section 8.4 Historic District Commission, 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 Chapel Hill 2020 Comprehensive Plan:

- A vibrant, diverse, pedestrian-friendly, and accessible downtown with opportunities for growing office, retail, residential, and cultural development and activity (Good Places, New Spaces.2)

- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (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 (Good Places, New Spaces.5)

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Land Use Management Ordinance, Article 3, Section 3.6.2 Review Criteria be amended as follows:

Section 1. Section 3.6.2.(e) Review Criteria is hereby revised to read as follows:

3.6.2 Historic Districts.

(e) 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 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.~~

Section 2. 8.4. Historic District Commission is hereby revised to read as follows:

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 160A, 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.

Section 3. This ordinance shall be effective upon enactment.

This the _____ day of _____, 2021.