



OPEN THE LEGISLATIVE HEARING: CONDITIONAL ZONING APPLICATION FOR 710 NORTH ESTES DRIVE TOWNHOMES (PROJECT #21-089)

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
 Colleen Willger, Director
 Judy Johnson, Assistant Director
 Corey Liles, Planning Manager

PROPERTY ADDRESS	MEETING DATE	APPLICANT
710 N. Estes Dr.	September 28, 2022	Spencer Christiansen, McAdams on behalf of Lock7 Development (Contract Purchaser) and Whitcomb Rummel (Property Owner)

STAFF RECOMMENDATION

That the Council 1) open the legislative hearing, 2) receive comments on the Conditional Zoning Ordinance, and 3) continue the hearing to October 19, 2022. Please see the attached Advisory Board recommendations.

ZONING

Existing: Residential-1 (R-1)

Proposed: Residential-5-Conditional Zoning District (R-5-CZD)

PROCESS

Conditional Zoning is a legislative process that allows Town Council to review the rezoning application for consistency with the Land Use Plan in the Comprehensive Plan and establish standards that address any impacts on surrounding properties.

PROJECT OVERVIEW

This project proposes to develop an 8-acre vacant parcel into a townhome community with approximately 95 units, garage parking along with some surface parking and on-street spaces, resident amenities, and associated site improvements. There would be a mixture of unit styles including horizontal attached and vertically stacked townhomes, as well as a mixture of bedroom counts.

The proposal complies with the Inclusionary Zoning Ordinance by providing 12 on-site affordable units and payment-in-lieu for 0.5 units. The amount of recreation space proposed meets Town requirements.

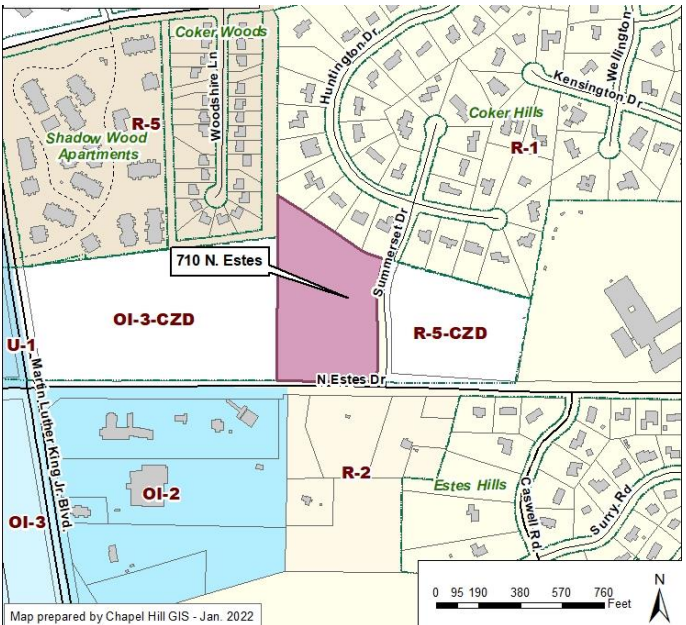
A Transportation Impact Analysis was completed for the project. The applicant proposes to construct a portion of the Estes Dr. Connectivity Project with bicycle and pedestrian improvements along their frontage.

DECISION POINTS

Modifications to Regulations: The applicant is requesting the following:

- Increase Maximum Floor Area
- Reduce Landscape Buffer on multiple sides
- Increase Maximum Land Disturbance of Steep Slopes

PROJECT LOCATION



ATTACHMENTS

1. Technical Report and Project Fact Sheet
2. Draft Staff Presentation
3. Resolution A, Resolution of Consistency and Reasonableness
4. Ordinance A (Approving the Application)
5. Resolution B (Denying the Application)
6. Advisory Board Comments and Recommendations
7. Urban Designer Recommendations
8. Modifications to Regulations (Applicant Request)
9. Applicant Materials



TECHNICAL REPORT

PROPOSED ZONING

The application proposes applying a Residential-5-Conditional Zoning District (R-5-CZD) to the site to accommodate the proposed project.

The intent of the Residential-5 zoning district is "to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development." (LUMO Section 3.3.9)

The applicant has submitted a Conditional Zoning application, which allows review of the development proposal in conjunction with the rezoning, and which allows site-specific standards to be formulated and applied as conditions through a legislative process. Conditions are typically used to:

- Address conformance of the development with Town regulations and adopted plans.
- Modify use, intensity, and development standards to be more restrictive when addressing impacts reasonably expected to be generated by development.
- Modify intensity and development standards to be less restrictive when accommodating the applicant's proposed site plan (Modifications to Regulations).

A -CZD suffix would be added to the zoning district designation to incorporate the approved conditions.

SITE CONTEXT

Staff has identified the following physical and regulatory characteristics of the land which are relevant to consideration of a Zoning Atlas Amendment:

- The site consists of 8.06 acres of gross land area with no existing development.
- The site fronts on Estes Dr., an NCDOT-maintained arterial street, and Somerset Dr., a Town-maintained local street.
- The future site of Aura Chapel Hill to the west is zoned Office/Institutional-3-Conditional Zoning District (OI-3-CZD).
- The Azalea Estates development to the east, across Somerset Dr., is zoned Residential-5-Conditional Zoning District (R-5-CZD).
- The Coker Hills neighborhood to the north is zoned Residential-1 (R-1).
- Other nearby zoning includes Residential-5 (R-5) to the northwest, Residential-2 (R-2) to the south across Estes Dr., and Office/Institutional-2 (OI-2) to the southwest across Estes Dr.
- There is an intermittent stream on the site which is subject to a Resource Conservation District (RCD) and Jordan Buffer. A wetland area is located within the stream corridor. There is no floodplain impacting the site.

- The site slopes from a high point near the northeast corner, gently down to the south and west. There are small areas of steep slopes in select locations. The site contains extensive vegetation.

PROPOSED MODIFICATIONS TO REGULATIONS

1) Section 3.8.2: Dimensional Regulations: Maximum Floor Area.

- *Permitted:* 154,045 sq. ft. in the Residential-5 (R-5) zoning district, with floor area bonus for affordable dwelling units
- *Requested:* Increase to 215,715 sq. ft.

Staff Comment: The zoning districts available in the Land Use Management Ordinance (LUMO) do not necessarily implement the guidance of the Future Land Use Map (FLUM) in all situations, given dimensional limitations. Staff has advised the applicant to propose a zoning district based on compatibility between the district intent statements in LUMO and the proposed development. Further justification is provided in the applicant’s statement on Modifications to Regulations.

2) Section 5.6.2: Landscape Buffers.

The applicant proposes modifications to the required width and Type of various buffers, as detailed in the table below.

Buffer Location	Required Buffer	Proposed Buffer
North	Will comply	
South	20 ft. Type C*	10 ft. Type A
East	15 ft. Type B*	10-20 ft. Type B
West	15 ft. Type B	0-10 ft. Modified Type

* Buffer reduced by one grade of intensity where no parking is located between the buildings and the adjacent street

Staff Comment: Landscape buffers are intended to separate proposed development from different adjacent land uses or zoning designations to minimize potential nuisances, reduce the visual impact of unsightly aspects of adjacent development, provide separation of spaces, and establish a sense of privacy.

The applicant proposes reduced and modified buffers on the southern, eastern, and western sides of the property to “contribute to the urban streetscape and provide a cohesive transition to the neighboring Aura project.” Further justification is provided in the applicant’s statement on Modifications to Regulations.

3) Section 5.3.2 Critical Areas: Steep Slopes Land Disturbance.

No more than 25% of the total combined area of 4:1 (25%) or steeper slopes shall be disturbed without a modification or variance. The proposed modification request is to allow up to 1,194 sq. ft. of steep slopes land disturbance area, which would be 90% of the total combined area of 4:1 or steeper areas.

Staff Comment: Steep slope regulations are intended to protect streams, lakes, and wetlands from the effects of erosion on water quality and water body integrity; to protect the plant and animal habitat of steep slopes from the effects of land disturbance; and to preserve the natural beauty and economic value of the town’s wooded hillsides.

The applicant states that the total amount of natural steep slopes on the site is small, and proposes a greater percentage of disturbance to grade the site for the development







of infrastructure and buildings pads. Further justification is provided in the applicant’s statement on Modifications to Regulations.

Council Findings and Public Purpose: The Council has the ability to modify the regulations according to Section 4.4.5 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer’s alternative is to revise the proposal to comply with the regulations.

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

Town staff has reviewed this application for compliance with the [Chapel Hill 2020 Comprehensive Plan](#)¹, the standards of the [Land Use Management Ordinance](#)², and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)³ and believes the Aspen Chapel Hill proposal complies with the following aspects of the 2020 Comprehensive Plan:

Comprehensive Plan Themes: In the following table of themes from the Chapel Hill 2020 Comprehensive Plan, adopted June 25, 2012, staff notes areas where the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan:

<input checked="" type="checkbox"/>		Create a Place for Everyone	<input checked="" type="checkbox"/>		Develop Good Places, New Spaces
<input type="checkbox"/>		Support Community Prosperity	<input type="checkbox"/>		Nurture Our Community
<input checked="" type="checkbox"/>		Facilitate Getting Around	<input type="checkbox"/>		Grow Town and Gown Collaboration

Future Land Use Map: The Future Land Use Map (FLUM) envisions the South MLK Jr Blvd Focus Area as a gateway corridor with a mix of uses, walkable urban design, and diversity of housing types – factors that together will make best use of future Bus Rapid Transit (BRT) service while also protecting natural features. The proposed rezoning offers the opportunity to align the site with the character envisioned by the FLUM.

The FLUM indicates a range of appropriate Primary and Secondary uses for Sub-Area B where this site is located. Townhomes & Residences is one of the appropriate uses. The FLUM also calls for:

- BUILDING HEIGHT. 2-4 stories in the Transitional Area, 4-6 stories interior to the site, and up to 6 stories along Estes Dr. (The FLUM suggests a story height of approximately 12 ft.)
- TRANSITIONAL AREA. Indicated along the northern portion of the site to create harmonious transitions to adjacent neighborhoods. Transitions can include less-intense uses, reduced height, buffers, and other measures.
- ACTIVATED STREET FRONTAGE. Indicated along Estes Dr. to create active visual engagement between the street and ground floor uses, with an environment between streets and buildings that provides pedestrian connections and excludes off-

¹ <http://www.townofchapelhill.org/home/showdocument?id=15001>

² https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALASMA

³ <http://www.townofchapelhill.org/town-hall/departments-services/public-works/engineering/design-manual-and-standard-details>

street parking.

- FUTURE PARKS & OPEN SPACE. Indicated as an arm running east-west across the site, and continuing in both directions onto adjacent sites.
- PROPOSED CONNECTION. An internal through-connection is indicated between the property to the west (Aura site) and Somerset Dr.

Mobility Plan: The Mobility and Connectivity Plan shows a proposed multiuse path and protected bike lanes along Estes Dr., and a multiuse path along the western site boundary. The Estes Dr. improvements are currently under construction through a Town capital project. Somerset Dr. has an existing sidewalk along the west side.

Climate: The Climate Action and Response Plan identifies Sustainable Development as a top strategy to reduce our community carbon footprint and build resiliency. The Transportation and Land Use chapter calls for creating walkable, bikeable, transit-served neighborhoods through strategies such as supportive zoning and integrated land use – transportation planning.

Small Area Plan: The Central West Small Area Plan indicates multifamily residential as the recommended land use for this site, with a recommended building height of 3-4 stories (4 stories at the site core). Development intensity should decrease compared to sites further west on Estes Dr. Features proposed for this site in the Small Area Plan include new road providing an east-west through connection, green space along the northern edge serving as a greenway and buffer, a multiuse trail along Estes Dr., sidewalk and bicycle accommodations along Somerset Dr., and a potential road or greenway in the power easement along the western site boundary (if feasible).

Staff Evaluation: North Carolina General Statute 160D-605(a) requires the Council to approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other applicable officially adopted plan when adopting or rejecting any zoning amendment.

Staff provides the following evaluation of this application's consistency with the 2020 Comprehensive Plan and other adopted plans:

- The proposed rezoning aligns with the character envisioned by the FLUM by providing an opportunity to develop a variety of housing types. The Residential-5-Conditional Zoning District (R-5-CZD) district would allow residential uses that the FLUM indicates are appropriate. The Conditional Zoning application proposes a use that falls within the 'Townhomes & Residences' category.
- The presence of Activated Street Frontages suggests urban design that is compatible with more intense, pedestrian-oriented development. Zoning conditions would be useful to define how street activation will be achieved.
- Residential-5 (R-5) standards would limit height to around 5 stories maximum, consistent with FLUM guidance for Building Height. The Conditional Zoning application proposes housing types that are commonly built at between 2 and 4 stories.
- The proposed rezoning supports residential development at the scale described in the Small Area Plan. Zoning conditions would be useful to regulate the provision of the identified buffer treatment and pedestrian/bicycle facilities, and to define how the development will meet the principles of the Small Area Plan.

REASONABLENESS OF THE ZONING ATLAS AMENDMENT

Reasonableness is determined by comparing the scale of permissible development under the proposed zoning district to the scale permitted under existing zoning, and by considering characteristics of the site and its surroundings. North Carolina General Statute 160D-605 requires the Town Council to consider a statement of reasonableness when reviewing any Zoning Atlas Amendment.

The factors listed below considers the applicant's proposed zoning district and overall proposed use program. Specific characteristics of the development proposal, compliance with regulations, and appropriate conditions to address potential impacts of the development are evaluated elsewhere.

Supporting Factors

- The proposed zoning matches the zoning of adjacent sites (Residential-5 (R-5)) and supports an appropriate transition between office/institutional zoning to the west and less intense residential zoning for existing neighborhoods.
- There has been other recent development activity in the surrounding area, including other housing types. The uses allowed under the proposed zoning are compatible with existing residential uses in the surrounding area.
- The surrounding road network, pedestrian and bicycle facilities (existing and planned) and transit service (existing and planned) indicate a transportation network that supports medium-to-high density residential development.
- The proposed zoning is consistent with the Future Land Use Map character for the Focus Area, and with the list of appropriate uses.
- The proposed zoning is also consistent with the identified uses and principles of the Central West Small Area Plan.
- Zoning conditions provide an opportunity to limit intensity and to establish standards that address any impacts on surrounding properties.

Other Considerations

- The proposed change in zoning district, including floor area proposed in the application, would allow more than 7 times the amount of currently permissible development.
- At final plat stage, lot lines must be established appropriately for the proposed housing types. The R-5 zoning district permits multifamily dwellings with up to 7 units per lot. Configurations of units with more than 7 units on a lot are prohibited.

FINDINGS OF FACT

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town, it is intended that the Land Use Management Ordinance (as stated in Section 4.4) shall not be amended except:

- 1) To correct a manifest error in the chapter; or
- 2) Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- 3) To achieve the purposes of the Comprehensive Plan.

Staff provides below an evaluation of this application based on the three findings. Further information may be presented for the Council’s consideration as part of the public hearing process. All information submitted at the public hearing will be included in the record.

FINDING #1: The proposed zoning amendment is necessary to correct a manifest error.	
Arguments	To date, no arguments in support or in opposition have been submitted or identified by staff.
Staff Evaluation	There appears to be no manifest error in the Town’s Zoning Atlas.

FINDING #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.	
Arguments	<p>Staff notes that there have been recent zoning amendments approved to the east and west of the site to support residential development and other uses. These include Azalea Estates in 2017 and Aura in 2021.</p> <p>Staff notes that the transportation infrastructure planned for this area – a multiuse path and a BRT station - represent changing conditions that could support more intense use.</p> <p>To date, no arguments in opposition have been submitted or identified by staff.</p>
Staff Evaluation	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions in Chapel Hill and in the S MLK Jr Blvd Focus Area.

FINDING #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.

Arguments

Staff notes that the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan through the following:

- Promoting the Focus Area Character for the South MLK Jr Blvd Focus Area as described in the Future Land Use Map.
- Facilitating development that implements FLUM guidance for Character Types in the Focus Area.
- Facilitating development that implements the principles and recommendations of the Central West Small Area Plan.
- Contributing to a range of housing options for current and future residents aligns with the theme of *A Place for Everyone*.
- Locating housing within walking distance of public transit routes, multiuse paths, and schools. The location offers multimodal access to employment, education, services, and shopping, and aligns with the theme of *Getting Around*.
- Opportunities for new housing that expand the range of neighborhood types, evolve Chapel Hill’s character for residents, and shapes land use in a way that strengthens community and protects the natural environment. These elements align with the theme of *Good Places New Spaces*.

To date, no arguments in opposition have been submitted or identified by staff.

Staff Evaluation

The Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.



PROJECT FACT SHEET











Overview









Site Description	
Project Name	710 North Estes Townhomes
Address	710 N. Estes Dr.
Gross Land Area	351,302 sq. ft. (8.06 acres)
Orange County Parcel Identifier Numbers	9789-45-5646
Existing Zoning	Residential-1 (R-1)
Proposed Zoning	Residential-5-Conditional Zoning District (R-5-CZD)

Development Intensity


Site Development Standards

Topic	Comment	Status															
Development Intensity																	
Use (Sec. 3.7)	<i>Proposed Uses:</i> Single-family dwelling units - attached (40 conventional townhomes) Duplex dwelling units (40 stacked townhomes) Multifamily dwellings, 3 units (15 stacked townhomes)																
Inclusionary Zoning Ordinance (Sec. 3.10)	<i>Required:</i> 12.5 affordable units (15% of unrestricted dwelling units) <i>Proposed:</i> 12 affordable units plus payment-in-lieu for 0.5 units																
Density (Sec. 3.8)	<i>Residential density:</i> 17.25 units per acre maximum (reflects 15% Density Bonus for Inclusionary Zoning) <i>Proposed:</i> 11.8 units per acre																
Dimensional Standards (Sec. 3.8)	<i>Setback (secondary) height:</i> 39 ft. maximum <i>Core (primary) height:</i> 60 ft. maximum <i>Setbacks:</i> 20 ft. street, 6 ft. interior, 8 ft. solar – all minimums <i>Proposed:</i> Height limits and setbacks comply																
Floor area (Sec. 3.8)	<i>Maximum allowed:</i> 154,045 sq. ft. (reflects Floor Area Bonus of 3,400 sq. ft. per affordable unit) <i>Proposed:</i> 215,715 sq. ft. (modification requested)	M															
Landscape																	
Buffers (Sec. 5.6.2)	<table border="0"> <thead> <tr> <th></th> <th><u>Required</u></th> <th><u>Proposed</u> (modifications requested)</th> </tr> </thead> <tbody> <tr> <td>North:</td> <td>10 ft. Type B</td> <td>10 ft. Type C</td> </tr> <tr> <td>South:</td> <td>20 ft. Type C along arterial street</td> <td>10 ft. Type A</td> </tr> <tr> <td>East:</td> <td>15 ft. Type B</td> <td>Variable width Type B</td> </tr> <tr> <td>West:</td> <td>10 ft. Type B</td> <td>Variable width and type</td> </tr> </tbody> </table>		<u>Required</u>	<u>Proposed</u> (modifications requested)	North:	10 ft. Type B	10 ft. Type C	South:	20 ft. Type C along arterial street	10 ft. Type A	East:	15 ft. Type B	Variable width Type B	West:	10 ft. Type B	Variable width and type	M
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Tree Canopy (Sec. 5.7)	<i>Minimum required:</i> 1.39 acres (30%) <i>Proposed:</i> 1.39 acres (30%)																

Landscape Standards (Sec. 5.9.6)	Final Plans application must comply	FP
Environment		
Resource Conservation District (RCD) Uses (Sec. 3.6.3)	Sidewalk and bike lane along Estes Dr. is the only land disturbing activity shown in the RCD. This is a permitted use.	
RCD Dimensional Standards (Sec. 3.6.3)	<i>Impervious surfaces:</i> 10% of area within Stream side zone, maximum (Managed use zone and Upland zone not applicable to intermittent stream) <i>Proposed:</i> <10% <i>Land disturbance:</i> 20% of area within Stream side zone, maximum <i>Proposed:</i> <20% (2,671 sq. ft.)	
Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required	
Steep Slopes Land Disturbance (Sec. 5.3.2)	<i>Maximum Disturbance allowed:</i> 25% of areas with existing 4:1 slopes or greater <i>Proposed:</i> Disturb up to 1,194 sq. ft. (90%) of steep slope areas (modification requested)	M
Stormwater Management (Sec. 5.4)	Meet or exceed LUMO standards	
Land Disturbance	<i>Proposed:</i> 287,496 sq. ft.	
Impervious Surface	<i>Existing:</i> 0.0 sq. ft. (0%) <i>Maximum allowed:</i> 175,651 sq. ft. (50.0%) <i>Proposed:</i> 149,397 sq. ft. (42.5%)	
Solid Waste & Recycling	Application must comply	FP
Jordan Riparian Buffer (Sec. 5.18)	<i>Minimum buffer required:</i> 50 ft. <i>Proposed:</i> 50 ft.; land disturbance as noted for RCD	
Access & Circulation		
Traffic Impact Analysis (Sec. 5.9)	TIA completed	
Road Improvements (Sec. 5.8)	TIA recommends continuous left-turn lane on Estes Dr. from Somerset Dr. to western property line. Committed improvements to the Estes Dr./Martin Luther King Jr. Blvd. intersection, west of the subject site, are part of the Aura Chapel Hill project and the Town's Estes Dr. Connectivity Project. Staff recommends \$25,000 payment for future signal at Estes Dr. and Somerset Dr.	C
Vehicular Access (Sec. 5.8)	Two full access roadway entrances – one connecting to Somerset Dr., the other connecting to the Aura roadway network to the west	
Bicycle Improvements (Sec. 5.8)	Construction of 5 ft. bike protected bike lane along Estes Dr. consistent with Estes Drive Connectivity Project	

Pedestrian Improvements (Sec. 5.8)	Construction of 10 ft. sidewalk protected bike lane along Estes Dr., consistent with Estes Dr. Connectivity Project Pedestrian access routes for the site connect to perimeter sidewalks; pedestrian circulation provided along internal roadways	
Transit Improvements (Sec. 5.8)	Staff recommends \$25,000 payment-in-lieu	C
Vehicular Parking (Sec. 5.9)	<i>Minimum parking required:</i> 19 spaces (for triplex dwellings only) <i>Maximum parking allowed:</i> 25 spaces (not counting garage spaces or driveways) <i>Proposed:</i> 25 spaces	
Bicycle Parking (Sec. 5.9)	<i>Minimum required:</i> 4 spaces (for triplex dwellings only) <i>Proposed:</i> 8 spaces	
Electric Vehicle Parking	None indicated	
Parking Design Standards (Sec. 5.9)	Application must comply	
Loading (Sec 5.9)	Not applicable	NA
Technical		
Fire	Built to Town Standards	
Recreation Area (Sec. 5.5)	<i>Required:</i> 17,565 sq. ft. plus 25% payment-in-lieu <i>Proposed:</i> 17,600 sq. ft. plus payment of \$81,677.25	
Lighting Plan (Sec. 5.11)	Built to Town Standards; not to exceed 0.3 footcandles at property line	FP
Signage (Sec. 5.14)	Built to Town Standards	FP
Schools Adequate Public Facilities (Sec. 5.16)	Application must comply	FP
Homeowners Association (Sec. 4.6)	Yes	

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plans
NA	Not Applicable