

ORDINANCE A

(Enacting the Land Use Management Ordinance Text Amendment)

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE SECTIONS 3.6.2 AND 8.4 RELATED TO HISTORIC DISTRICT COMMISSION PROCEDURES (2019-11-20/O-3)

WHEREAS, the Council called a Public Hearing for the Council's October 30, 2019 meeting to amend Sections 3.6.2 and 8.4 of the Land Use Management Ordinance (LUMO) as they relate to Historic District Commission procedures; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendments to LUMO Sections 3.6.2 and 8.4 related to Historic District Commission procedures, and finds that the amendments, if enacted, are reasonable and in the public's interest and are 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 community of high civic engagement and participation (A Place for Everyone - PFE.5)
- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Good Places, New Spaces - GPNS.3)
- Adopt an integrated development review process that is fair and transparent and that incorporates the Chapel Hill 2020 environmental goals (Nurturing Our Community - NOC.5)

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

Section 1 – Paragraph 4 of Article 3. Section 3.6.2(d) Procedures for approval of certificates of appropriateness is hereby amended to read as follows:

“(4) Action on the application. Within ~~one hundred eighty (180)~~ ninety (90) days of the ~~acceptance~~ filing of an application, or within such further time consented to by written notice from the applicant, the town manager or the commission shall approve the application, approve the application with conditions, or deny the application. The time period for action by the commission shall be stayed during periods of appeal to the Board of Adjustment by any party. Under no circumstances shall the time period for which the commission may take action be extended beyond 180 days from the date an application is filed. An application is considered filed when it has been submitted, deemed complete by the town manager, and the requisite application fee has been received by the Town. Failure to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted. The town manager or the commission may impose such reasonable conditions on the approval of an application as will ensure that the spirit and intent of this article are achieved. An application for a certificate of appropriateness authorizing the demolition of a building or structure within the historic district may not be denied. However, the effective date of such a certificate may be delayed for up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the commission finds that the building has no particular

significance or value toward maintaining the character of the historic district, it shall waive all or part of such period and authorize earlier demolition or removal. In every case, the record of the commission's action shall include the reasons for its action."

Section 2 – Paragraph 7 of Article 3. Section 3.6.2(d) Procedures for approval of certificates of appropriateness is hereby amended to read as follows:

"(7) Submittal of new application. If the commission denies an application for a certificate of appropriateness, a new application affecting the same property may be ~~submitted~~ accepted by the town manager only if substantive substantial change, with respect to the reasons for its denial, is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving."

Section 3 – Paragraph 8 of Article 3. Section 3.6.2(d) Procedures for approval of certificates of appropriateness is hereby amended to add a new subsection (8) to read as follows:

"(8) A certificate of appropriateness shall be valid for 365 calendar days from date of issuance, or, in the case of a certificate for demolition, from the effective date. If the authorized work has not commenced within that period, has not been extended by the commission, or has been discontinued for more than 365 calendar days from the date of issuance, such certificate of appropriateness shall expire and the applicant shall be required to reapply and obtain a new certificate of appropriateness before commencing further work.

All certificates of appropriateness issued prior to November 20, 2019 for which work has not commenced or which have not been extended by the commission shall be valid until November 20, 2020.

The town manager may grant a single extension of the time limit for up to twelve (12) months if he/she determines that:

- A. The certificate holder submitted the request within sixty (60) days of the expiration date;
- B. The certificate holder has proceeded with due diligence and good faith; and
- C. Conditions have not changed so substantially as to warrant commission reconsideration of the approved project."

Section 4 – Paragraph 1 of Article 3. Section 3.6.2(e) Review criteria is hereby amended to read as follows:

"(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 Design Guidelines."

Section 5 – Paragraph 3 of Article 3. Section 3.6.2(e) Review criteria is hereby amended to read as follows:

"(3) The commission, using the criteria below, shall make findings of fact indicating ~~the extent to which~~ 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."

Section 6 – Article 8. Section 8.4.9 Quorum and voting is hereby amended to read as follows:

"A quorum of the commission, necessary to take any official action, shall consist of six (6) members. The concurring vote of ~~five (5) members~~ a majority of the membership of the commission shall be necessary to take any official action to approve or deny an application or permit. Vacant positions on the board and members who are disqualified from voting shall not be considered members of the board for the calculation of the requisite majority.

The concurring majority vote of the quorum shall be necessary to conduct other business, including making a recommendation on an application to be considered by the council."

Section 7 – Article 8. Section 8.4.10 Historical and Architectural Significance Maps is hereby amended to read as follows:

"8.4.10. Historical and Architectural Significance ~~Maps~~ Inventories.

The commission shall prepare, maintain, ~~and consult maps,~~ and make available to the public inventories, including photographs and assessments, showing the historic and architectural significance of buildings, structures, sites, areas, objects, and cultural landscapes within the historic districts. Such ~~maps~~ inventories of historic resources shall be used as a guide for the designation of historic districts. The commission shall take steps as necessary to ensure that the inventory reflects information current to within twenty (20) ~~updated at least every~~ five (5) years.

A structure is deemed to have historic and/or architectural significance if it possesses integrity of location, design, setting, materials, workmanship, feeling, and association, and if it:

- (a) Is associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or
- (b) Is associated with the lives of persons significant in the past; or
- (c) Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
- (d) Has yielded, or may be likely to yield, information important in prehistory or local, State, and national history."

Section 8 - This ordinance shall be effective upon enactment.

This the 20th day of November, 2019.