



# TOWN OF CHAPEL HILL

## Town Council Meeting Agenda

Town Hall  
405 Martin Luther King Jr.  
Boulevard  
Chapel Hill, NC 27514

Mayor Pam Hemminger  
Mayor pro tem Michael Parker  
Council Member Jessica Anderson  
Council Member Allen Buansi

Council Member Hongbin Gu  
Council Member Tai Huynh  
Council Member Amy Ryan  
Council Member Karen Stegman

**Wednesday, October 21, 2020 6:30 PM**

**Virtual Meeting**

### Virtual Meeting Notification

*Town Council members will attend and participate in this meeting remotely, through internet access, and will not physically attend. The Town will not provide a physical location for viewing the meeting.*

*The public is invited to attend the Zoom webinar directly online or by phone. Register for this webinar:*

*[https://us02web.zoom.us/webinar/register/WN\\_fgPYF1uzTXOTxMpnprT8VQ](https://us02web.zoom.us/webinar/register/WN_fgPYF1uzTXOTxMpnprT8VQ)*

*After registering, you will receive a confirmation email containing information about joining the webinar in listen-only mode. Phone: 301-715-8592, Meeting ID: 890 9053 7187*

*View Council meetings live at <https://chapelhill.legistar.com/Calendar.aspx> – and on Chapel Hill Gov-TV ([townofchapelhill.org/GovTV](http://townofchapelhill.org/GovTV)).*

### OPENING

### ROLL CALL

### AGENDA ITEMS

1. Progress Report on Climate Action Plan.

[\[20-0708\]](#)

PRESENTER: John Richardson, Community Resilience Officer

The purpose of this item is for the Council to receive the progress report and provide additional guidance, as needed.

2. Continue Discussion of Chapter 160D Updates to Land Use Management Ordinance and Town Code of Ordinances.

[\[20-0709\]](#)

PRESENTER: Alisa Duffey Rogers, LUMO Project Manager  
Corey Liles, Principal Planner

The purpose of this item is for Council to receive the staff presentation and provide guidance on the identified Policy Choices.

- 3.** Discuss Processes for Developing Council Initiated Resolutions. (no attachment) [\[20-0710\]](#)

PRESENTER: Maggie McGlynn, Facilitator

The purpose of this item is to develop steps that allows the Council to be responsive to emerging issues in ways that are inclusive of the full Council and that create equitable, high-quality policy decisions.

**REQUEST FOR CLOSED SESSION TO DISCUSS ECONOMIC DEVELOPMENT, PROPERTY ACQUISITION, PERSONNEL, AND/OR LITIGATION MATTERS**



# TOWN OF CHAPEL HILL

Town Hall  
405 Martin Luther King Jr.  
Boulevard  
Chapel Hill, NC 27514

## Item Overview

**Item #:** 1., **File #:** [20-0708], **Version:** 1

**Meeting Date:** 10/21/2020

### Progress Report on Climate Action Plan.

**Staff:**

John Richardson, Community Resilience Officer

**Department:**

Manager's Office

**Overview:** Staff will present a progress report on the [Climate Action and Response Plan project](https://www.sustainchapelhill.org/featured/2020/2/18/climate-action-and-response-plan) <https://www.sustainchapelhill.org/featured/2020/2/18/climate-action-and-response-plan>. The report will cover:

- advancements and key findings
- challenges and responses to COVID-19
- project timing
- new opportunities to explore
- proposed next steps



**Recommendation(s):**

That the Council receive the progress report and provide additional guidance, as needed.

**Fiscal Impact/Resources:** There are no fiscal impacts associated with this report.



**Attachments:**

- Draft Staff Presentation

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**The Agenda will reflect the text below and/or the motion text will be used during the meeting.**

PRESENTER: John Richardson, Community Resilience Officer

The purpose of this item is for the Council to receive the progress report and provide additional guidance, as needed.



# Progress Report on Climate Action Plan

October 21, 2020





# SUSTAINABILITY

## Climate Action Plan





# Overview

1. Key Findings
2. Progress on Climate Action
3. Next Steps



# <sup>7</sup> Recommendation

That the Council receive the report and provide additional direction, as needed.



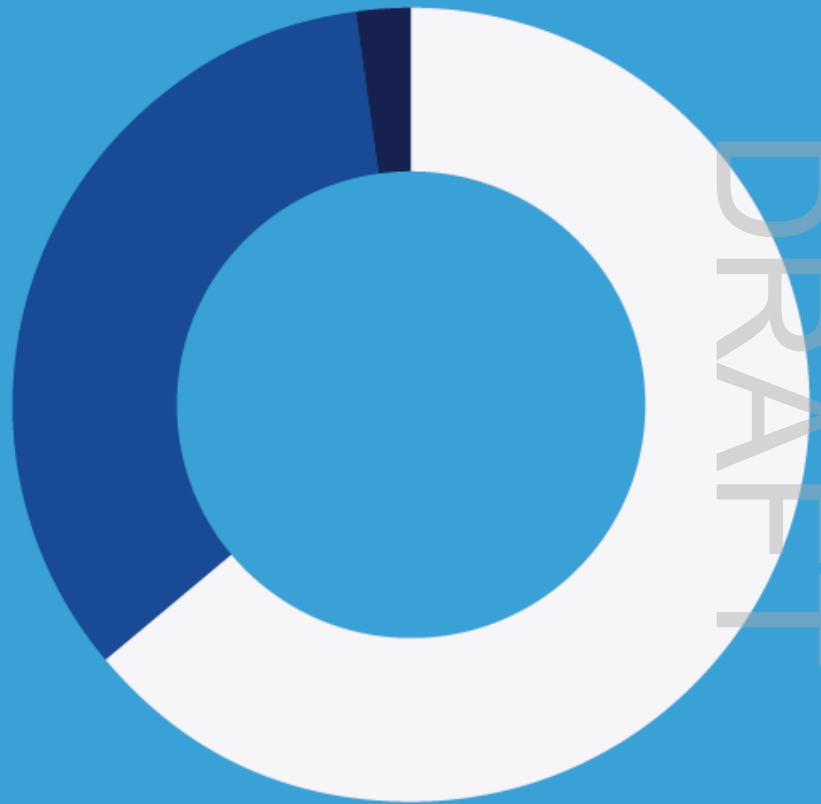
# 1. Key Findings

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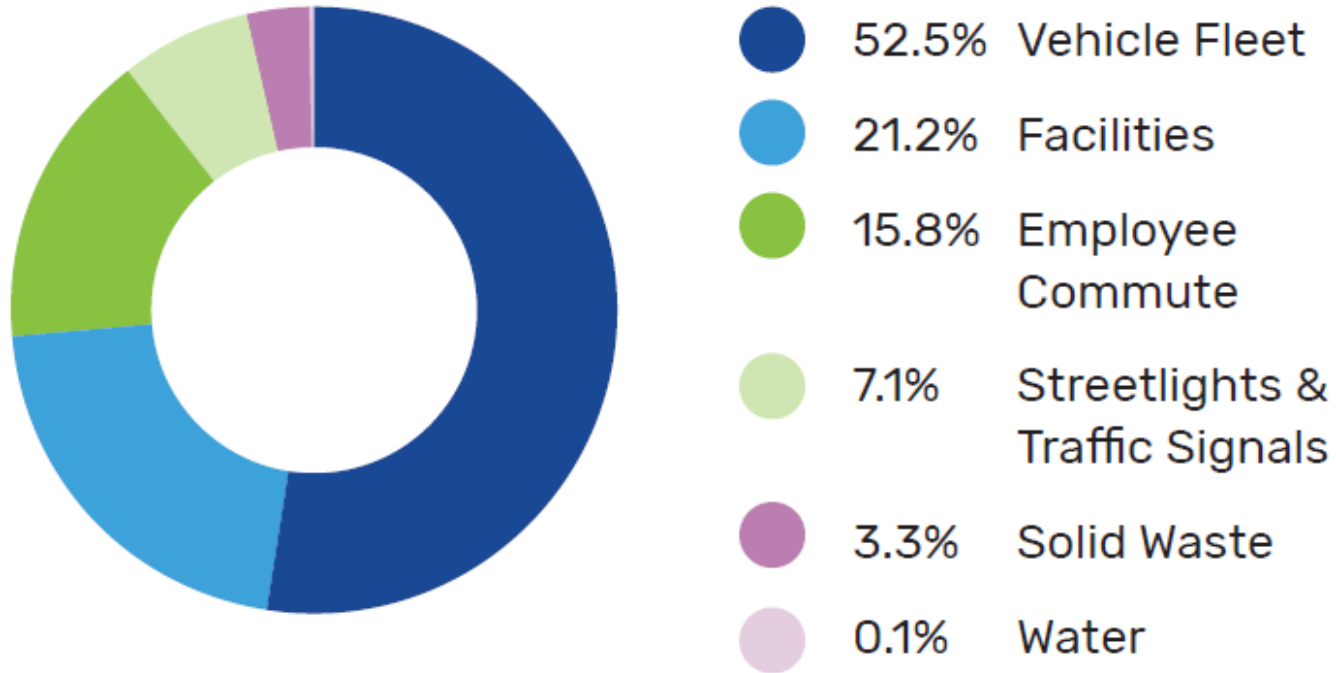


## Community Emissions

● Community	458,839
● Municipal	16,617
● UNC	239,871
<b>Total</b>	<b>698,710</b>

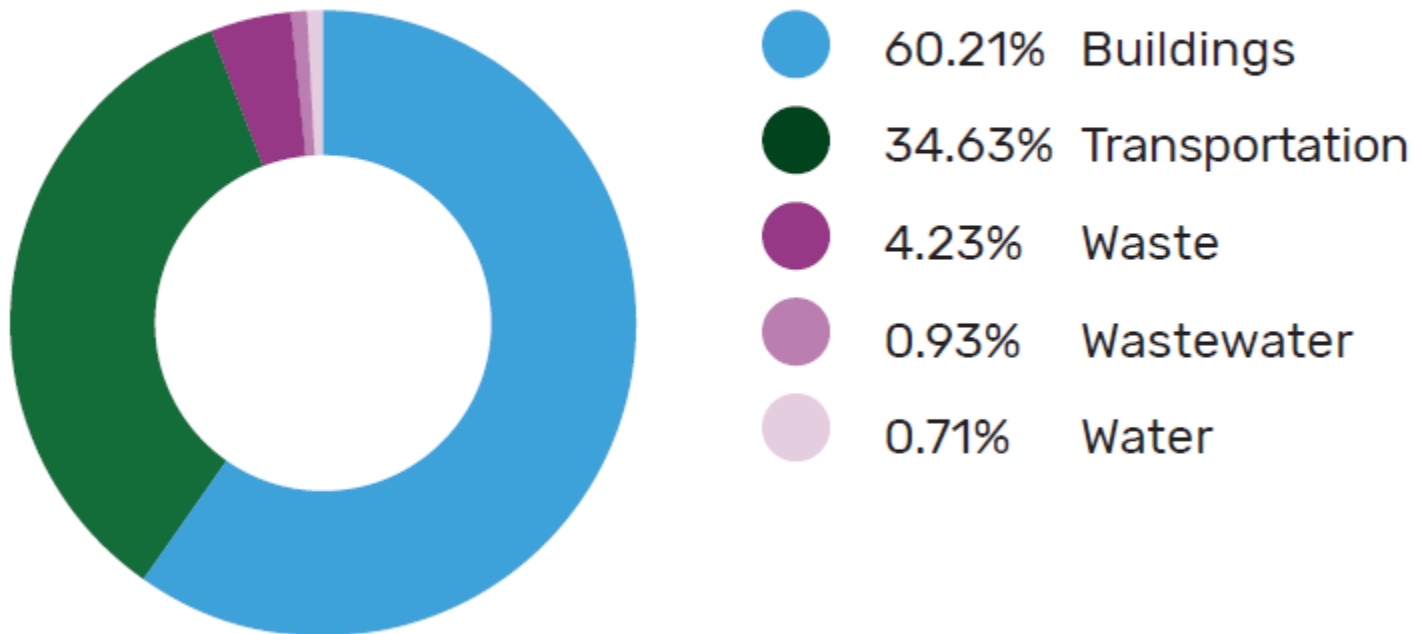


## Municipal GHG Emissions by Sector



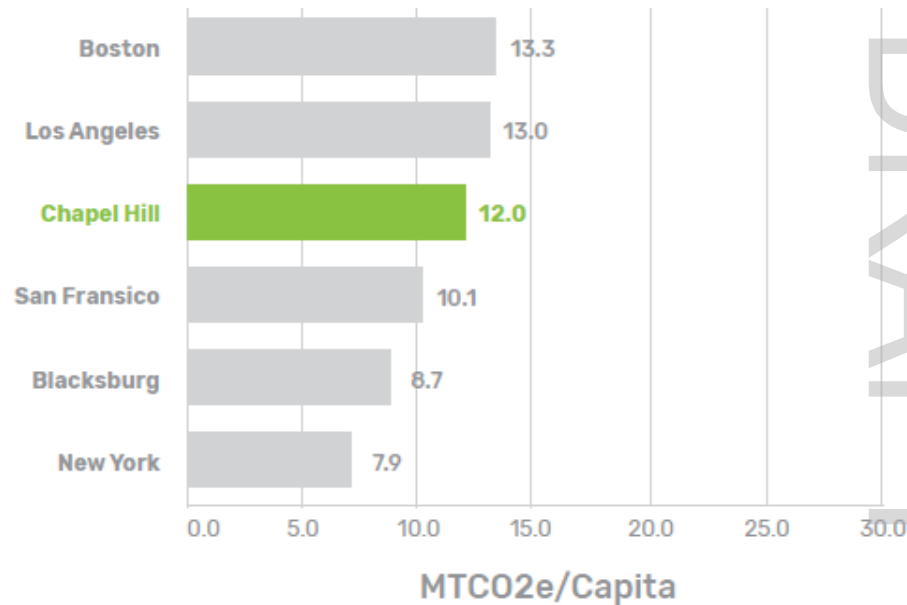
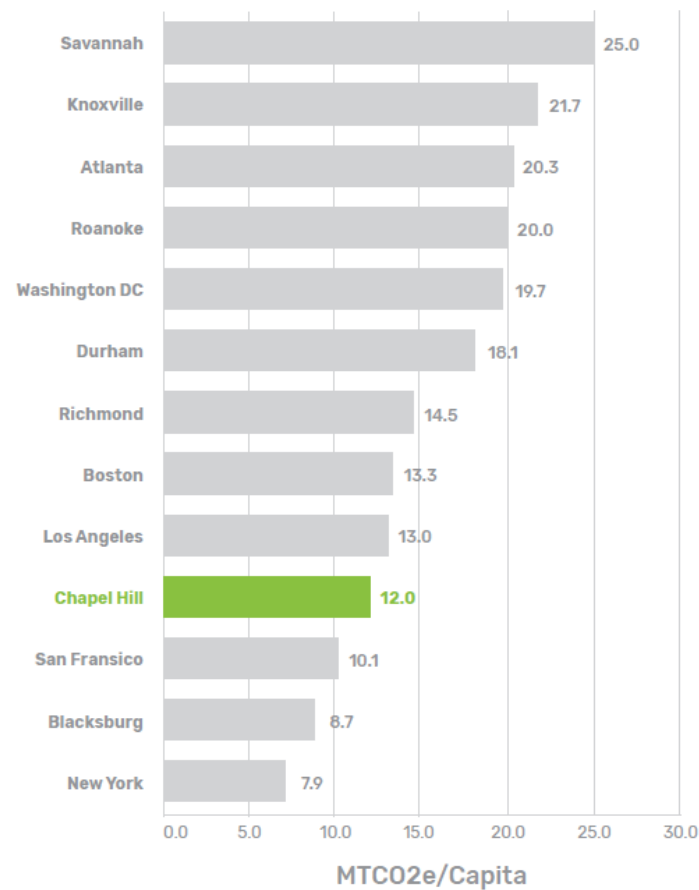
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## Community GHG Emissions by Sector



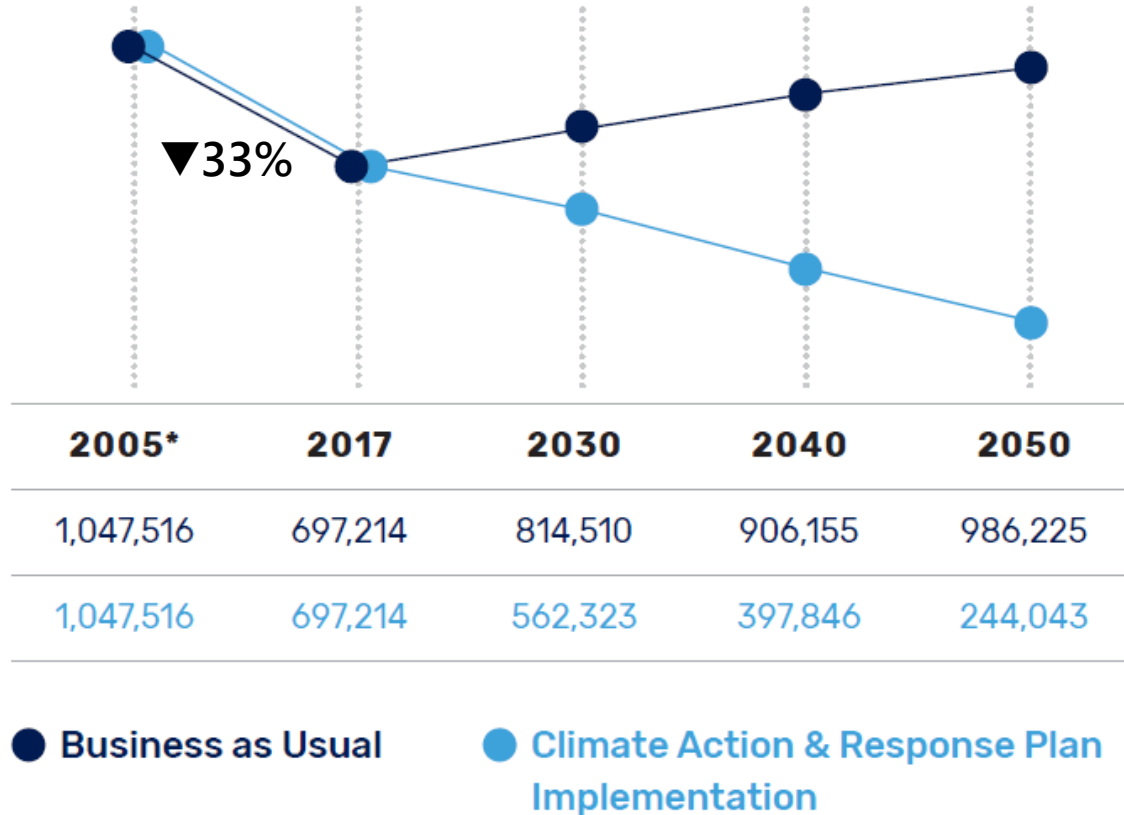
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Community GHG Intensity Compared



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# GHG Projections<sup>13</sup>



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# **What actions will lower emissions the most?**

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**1. Greening the grid ▼38%**



**3. Electric vehicles ▼11%**



**2. Sustainable development ▼14%**



**4. Green building retrofits ▼8%**

## **2. Action Updates**

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# Taking Action Together



**Buildings  
& Energy**



**Transportation  
& Land Use**

**95% of Community emissions**



**Waste, Water  
& Other**



**Resiliency**

# Taking Action Together



## 18 Public Health

Improving our community's health and well-being as climate action improves environmental conditions.



## Equity/Climate Justice

Addressing inequities in climate change burdens on vulnerable community members and achieving an equitable distribution of climate action benefits.



## Resilience to Stressors

Improving our ability to bounce back and bounce forward in the face of climate change.



## Regional Partnerships

Working collaboratively across the region to take action.

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# LED Streetlights

19



# LED Park Lighting

20

20



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# EV Charging + Greening the Grid

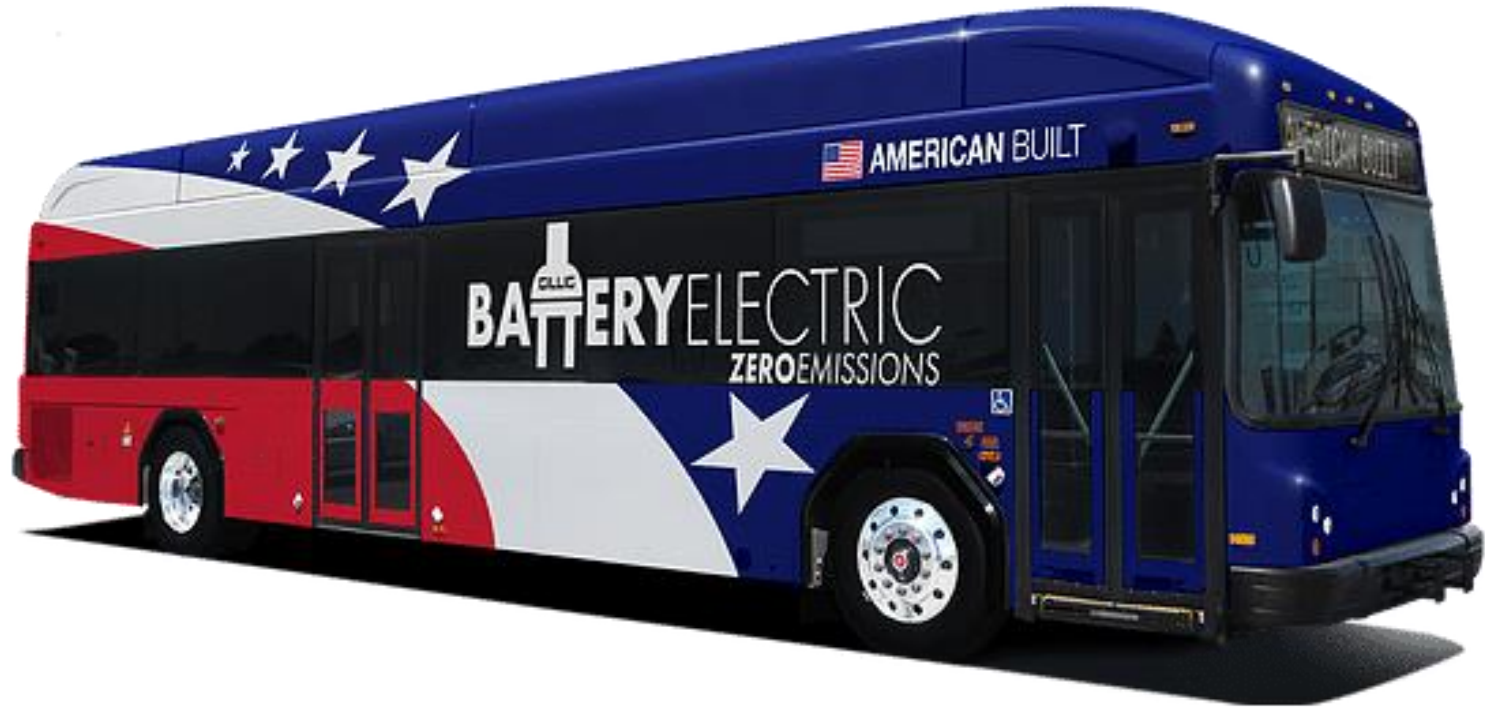
21



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# Electric Buses

22



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# EV Charging

23



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*Image courtesy of Wisconsin Public Radio*



# Booker Creek Storage Basin



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## **3. Next Steps**

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# Plan Progress to Date



- ✓ Complete Carbon Inventories for Community and Municipal Operations
- ✓ Hold Climate Action Summit
- ✓ Share project video with stakeholders
- ✓ Share community opinion survey
- ✓ Model carbon reduction solutions for impact potential and co-benefits
- ✓ Begin drafting plan elements

# Public Engagement



Metroquest Survey



Chapel Hill Climate Action Video





# Public Engagement



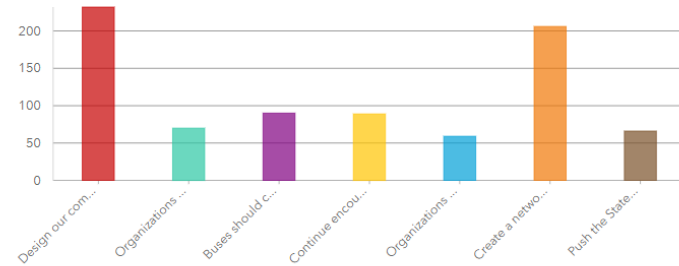
## SOSTENIBILIDAD Plan de Acción Climática



### Climate Action Opinion Survey

433/433

6. What do you see as the top two actions that can reduce the most carbon emissions from transportation i... Column Bar



[Hide table](#)

☒ Empty categories [1 | Sort](#)

Answers	Count	Percentage
Design our community so that people don't have to drive as much	232	53.58%
Organizations should change their private vehicle fleets to electric	70	16.17%
Buses should come more often and run longer into the night	90	20.79%
Continue encouraging all employees to carpool, vanpool, take transit, bike, walk and work from home	89	20.55%
Organizations should provide more electric vehicle charging for their clients and employees	59	13.63%
Create a network of safe biking and walking paths that go all around town	206	47.58%
Push the State to make sure that the electricity for electric vehicles get	66	15.24%

# Next Steps<sup>30</sup>

- Share the draft plan for public input (*November*)
- Meet with advisory boards to share draft plan (*November-December*)
- Finalize draft plan for Council review (*November-December*)
- Council considers plan adoption (*January*)







# SUSTAINABILITY

## Climate Action Plan





# TOWN OF CHAPEL HILL

Town Hall  
405 Martin Luther King Jr.  
Boulevard  
Chapel Hill, NC 27514

## Item Overview

Item #: 2., File #: [20-0709], Version: 1

Meeting Date: 10/21/2020

### Continue Discussion of Chapter 160D Updates to Land Use Management Ordinance and Town Code of Ordinances.

#### Staff:

Alisa Duffey Rogers, LUMO Project Manager  
Ann Anderson, Town Attorney  
Corey Liles, Principal Planner  
Gene Poveromo, Interim Zoning Enforcement Manager

#### Department:

Town Manager's Office  
Planning  
Building Services

**Overview:** Chapter 160D of NC General Statutes was established under Session Law 2019-111, which was signed into law on July 11, 2019. Before July 1, 2021, it is necessary for the Town to update the Land Use Management Ordinance (LUMO) and other sections of the Town Code to continue operating in compliance with State law. This item is a continuation of discussions with Council on [June 17, 2020 <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4569906&GUID=0CE76AA5-06B3-4421-8884-D0D1FBD81E30>](https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4569906&GUID=0CE76AA5-06B3-4421-8884-D0D1FBD81E30) and [September 16, 2020 <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4640115&GUID=B6921C68-D711-4649-A7AC-E69FC5474889>](https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4640115&GUID=B6921C68-D711-4649-A7AC-E69FC5474889).



#### Recommendation(s):

That the Council receive the staff presentation and provide guidance on the identified Policy Choices.

#### Decision Points:

- Appropriate involvement of Planning Commission and other Advisory Boards in the Special Use Permit review process
- Development approvals that are appropriate for vested rights

#### Key Issues:

- Part I of Session Law 2019-111 is already in effect. Staff met with Council members during the summer to share how development review procedures must change to address the provisions of Part I.
- As a vehicle for modernizing land use laws, Part II requires the Town to update LUMO and other sections of the Town Code to maintain compliance.
- At the September 16 Work Session, Council provided input on eliminating Conditional Use District Zoning, Advisory Board review of Special Use Permits (returning for continued discussion at this Work Session), and appeals of Historic District Commission decisions.

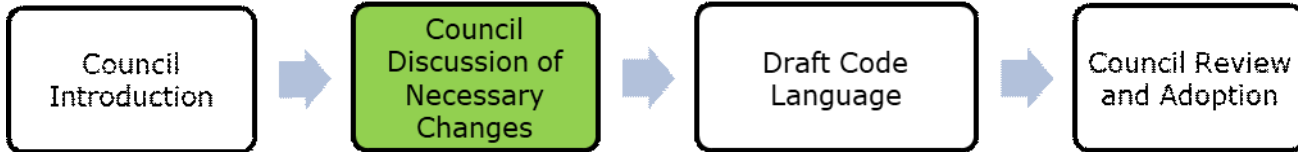
**Fiscal Impact/Resources:** There are no anticipated fiscal impacts from the project as proposed. Town staff will conduct the public engagement and develop the draft Code language.

#### Where is this item in its process?

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**Item #: 2., File #: [20-0709], Version: 1****Meeting Date: 10/21/2020**

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**Attachments:**

- Draft Staff Presentation
- Staff Memorandum

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**The Agenda will reflect the text below and/or the motion text will be used during the meeting.**

PRESENTER: Alisa Duffey Rogers, LUMO Project Manager  
Corey Liles, Principal Planner

The purpose of this item is for Council to receive the staff presentation and provide guidance on the identified Policy Choices.

TOWN COUNCIL  
WORK SESSION  
OCTOBER 21, 2020

Agenda:

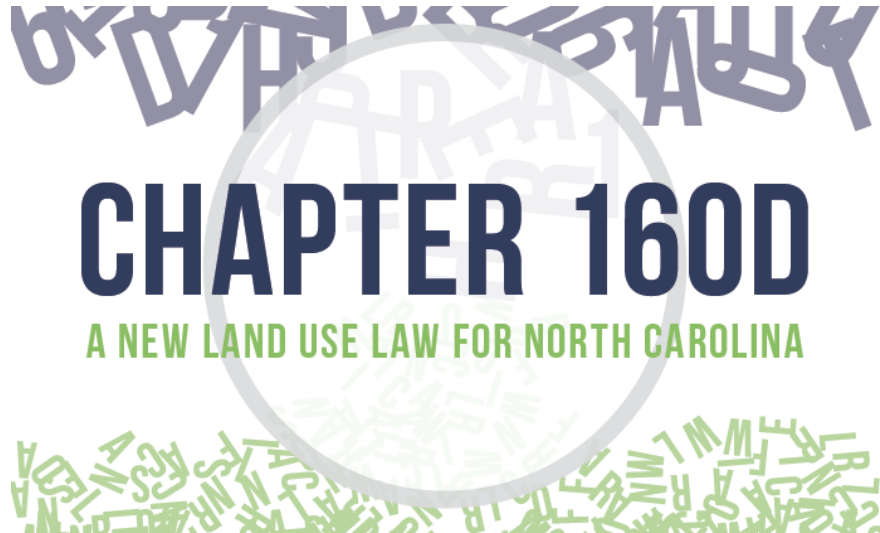
Quick Background on I60D

Policy Considerations for Selected I60D  
Provisions including Q & A:

Advisory Board Review of SUP

Vested Rights

Next Steps



## BACKGROUND

Chapter 160D – new section of NC General Statutes containing rules for local land use authority

- Created by Session Law 2019-111
- Revised by Session Law 2020-25

## PART I

In effect now

Revisions to development review procedures –

*no text amendments required*

## PART II

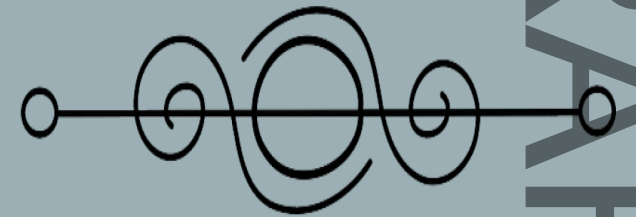
Compliance required by July 2021

Updates to LUMO and Town Code

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## TOPICS

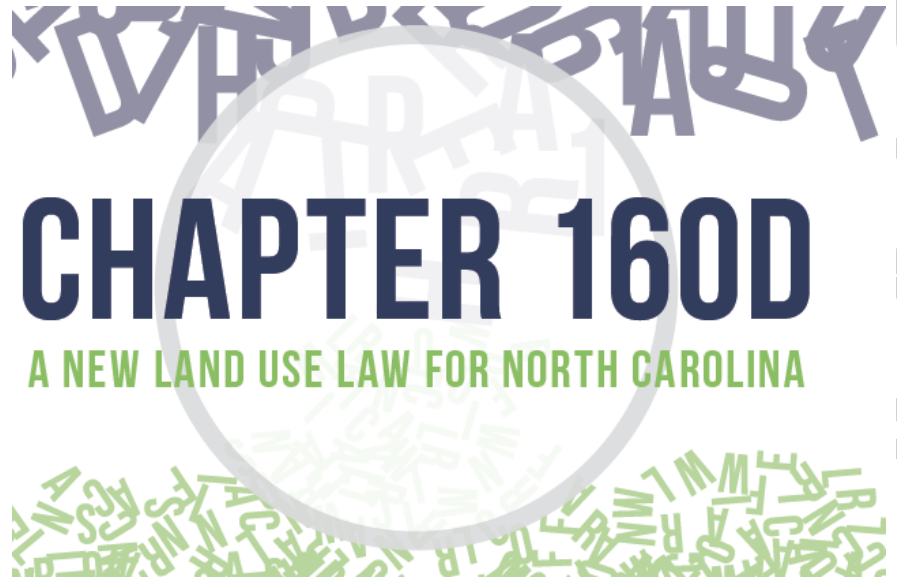
- Advisory Board Review of Special Use Permits
- Approvals with Vested Rights



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## ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

- Advisory board recommendations may **NOT** be used by Council as the basis for deciding Special Use Permits



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## ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

### Question:

What should be the future role of Boards/Commissions?

## PREVIOUSLY DISCUSSED ALTERNATIVES

- Preliminary Forum
- Discontinue Board/Commission Review
- Other ideas

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## ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

### Question:

What should be the future role of Boards/Commissions?

## SUGGESTED ALTERNATIVE

- Boards/Commissions Review SUP
- Provide Input to Staff
- Staff Evaluates Input
- Appropriate Input Incorporated into Resolution of Approval

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## ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

### Question:

What are the pros/cons of the suggested alternative?

## SUGGESTED ALTERNATIVE - CONSIDERATIONS

- Provides a way for Boards/Commissions to raise unconsidered issues
- Adds time to the review process
- Boards/Commissions may not appreciate their input being vetted by Staff

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## ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

### Question:

Are there other considerations for the suggested alternative?

41

## SUGGESTED ALTERNATIVE – ADDITIONAL CONSIDERATIONS

- Should boards/commissions hold a preliminary forum to hear community concerns?
  - Doing so may give false impression that community concerns can be incorporated into suggested conditions
  - Provides additional avenue for unconsidered issues

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## ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

- **Questions for Consideration:**
  - Is the suggested alternative workable?
  - If so, should boards/commissions hear community concerns?

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## APPROVALS WITH VESTED RIGHTS

# CHAPTER 160D

A NEW LAND USE LAW FOR NORTH CAROLINA

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## APPROVALS WITH VESTED RIGHTS

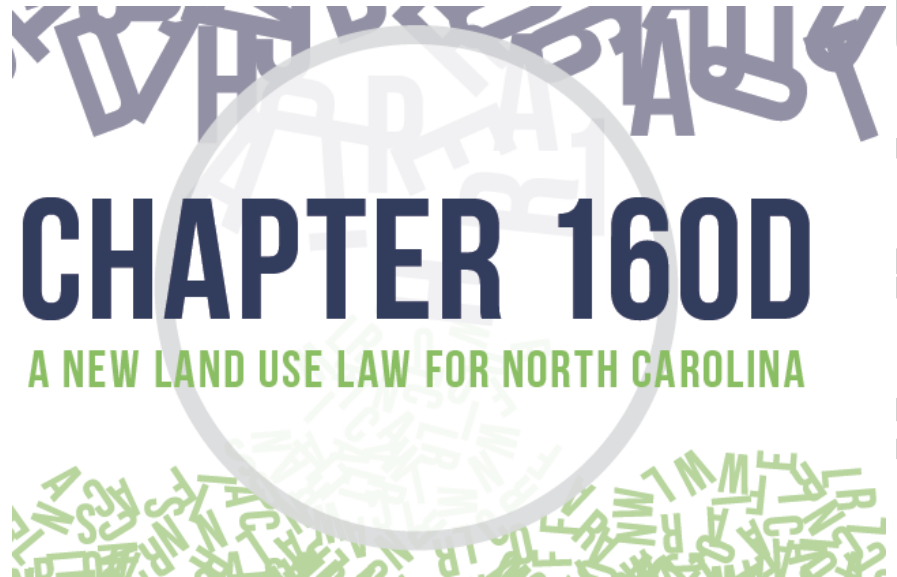
A vested right precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development of an approved project

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## APPROVALS WITH VESTED RIGHTS

Included in 160D to protect  
approved projects from  
changes in development  
regulations



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## APPROVALS WITH VESTED RIGHTS

## TWO OPTIONS

- Default Rule
- Site Specific Vesting Plans

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## APPROVALS WITH VESTED RIGHTS

### Question:

- Which development approvals should be considered site specific development plans?

## CONSIDERATIONS

- Length of Development Review Process
- Detail required on Submitted Plans

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SITE SPECIFIC  
VESTING PLANS

Possibilities

Site Plans	Final Plat
Conditional Zoning	Minor Subdivision
Form District Permits	Special Use Permits
Preliminary Plat	

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## APPROVALS WITH VESTED RIGHTS

### Question:

- How long should Site Specific Vesting Plan be valid?

## TIME FRAMES

- Two years
- Three – Five years

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## PROPOSED PROCESS

Public engagement underway  
and continuing throughout  
process

Text amendments enacted in  
Spring 2021

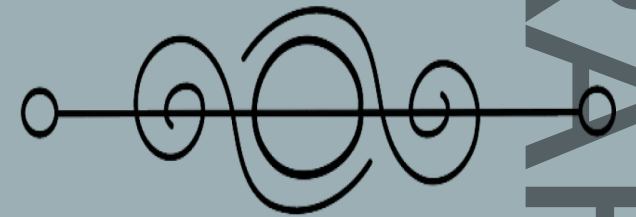
1	Staff Assessment of Necessary Changes	March - July 2020
2	Council Introduction	June 2020
3	Public Engagement – Building Familiarity	July – Sept 2020
4	➤ <u>Council Discussion</u>	<u>Sept – Oct 2020</u>
5	Public Engagement – Policy Choices	Oct 2020 - Jan 2021
6	Draft Text Amendments	Feb 2021
7	Planning Commission Review	Feb - March 2021
8	Council Review and Adoption	April - May 2021
9	Effective Date of Part II	July 1, 2021

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## NEXT STEPS

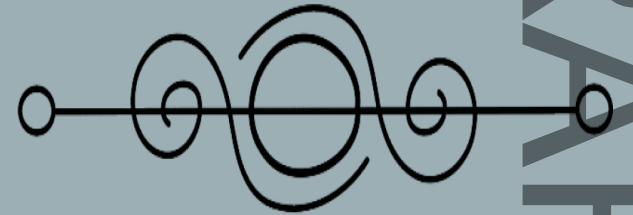
### Work Session in December – Spoiler Alert!

- Changes to LUMO Definitions
- Additional Conversation about HDC Appeals
- Other Interesting, Technical Zoning Topics!?



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# **FINAL QUESTIONS?**



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# STAFF MEMORANDUM

Council Work Session – 10/21/2020



## CHAPTER 160D: DETERMINING UPDATES TO THE LAND USE MANAGEMENT ORDINANCE, TOWN CODE, AND OTHER POLICIES

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In 2020 and 2021, the Town of Chapel Hill Planning Department will be recommending updates to the Land Use Management Ordinance (LUMO) and other sections of the Town Code to align our regulations with new State legislation commonly referred to as '160D'. These updates are necessary for the Town's development regulation functions to continue operating in compliance with State law.

### PROJECT PURPOSE

To bring LUMO and other Town regulations into compliance with State law, as most recently revised with the adoption of [Session Law 2019-111](#)<sup>1</sup> and [Session Law 2020-25](#)<sup>2</sup> and the establishment of NC General Statutes [Chapter 160D](#)<sup>3</sup>.

### BACKGROUND

'160D' refers to the new section of the NC General Statutes that contains the rules for how local jurisdictions can exercise land use authority in areas such as zoning and subdivisions. Chapter 160D was established under Session Law 2019-111 (with later technical corrections under Session Law 2020-25), and was signed into law in the summer of 2019. Part I of the Session Law went into effect at that time. Part II, which clarifies, consolidates, and reorganizes land-use regulatory laws, will go into effect on or before July 1, 2021 (the effective date varies based on when jurisdictions adopt amendments to implement 160D).

Further information on the State's enactment of Session Laws and Chapter 160D is available at the [Town's project webpage](#)<sup>4</sup>.

### PART I PROVISIONS

Council received an introduction to 160D updates at the [June 17, 2020 Special Meeting](#)<sup>5</sup>. The focus of that item was on Part I topics. Council members met in small groups following the June 17<sup>th</sup> meeting to further discuss the implications of Part I. This fall, staff moved into discussion of Part II topics.

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<sup>1</sup> <https://www.ncleg.gov/BillLookup/2019/S355>

<sup>2</sup> <https://www.ncleg.gov/BillLookup/2019/S720>

<sup>3</sup> <https://www.sog.unc.edu/sites/www.sog.unc.edu/files/160D%20with%202020%20legislative%20corrections.pdf>

<sup>4</sup> <https://www.townofchapelhill.org/government/departments-services/planning/plans-and-ordinances/160d-updates-4113>

<sup>5</sup> <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4569906&GUID=0CE76AA5-06B3-4421-8884-D0D1FBD81E30>

# STAFF MEMORANDUM

Council Work Session – 10/21/2020

## PART II PROVISIONS FOR DISCUSSION

The Land Use Management Ordinance and Town Code will need various updates to maintain compliance with State law, as revised by the adoption of Part II of Session Law 2019-111 and the establishment of Chapter 160D.

Staff introduced several Part II topics at the [September 16, 2020 Work Session](#)<sup>6</sup>. This month, staff is seeking additional Council feedback on a previous topic and is introducing two new topics, as summarized below.

Topics for October Work Session:

- 1. Advisory Board Review of Special Use Permits**
- 2. Approvals with Vested Rights**
- 3. Bona Fide Farms**

### **1. Advisory Board Review of Special Use Permits**

Based on Council feedback at the September 16 Work Session, staff reviewed options for including Advisory Board input in the Special Use Permit (SUP) review process. Advisory Boards, including the Planning Commission, do have the ability to review SUPs. However, their recommendations **may NOT** be used as the basis for a Council decision. The Council decision must be made based on competent evidence presented at the quasi-judicial, evidentiary hearing.

One question from Council was whether members of an Advisory Board could be considered 'expert witnesses' who had standing to speak at a quasi-judicial, evidentiary hearing. The Town Attorney has advised that Advisory Board Chairs and other members **are NOT** qualified to serve as expert witnesses merely because they serve on the Advisory Boards.

Regarding Town staff's role at a quasi-judicial, evidentiary hearing, generally speaking, the role of Town staff is for the staff person who prepared the material in the agenda packet to be sworn in as a witness, state for the record that they compiled and drafted the agenda materials, provide specifics on when and how the materials were distributed, and offer to answer questions.

Council members also asked whether Advisory Board input could be transmitted to Planning staff instead of Council, and whether staff could then consider that input when writing staff reports and drafting conditions of approval. The Town Attorney advised that this approach is workable, but with the following caveats:

- This approach would allow the same Advisory Boards currently reviewing SUPs to bring unconsidered issues to staff's attention. It must be clearly communicated, however, that Advisory Board meetings are "a preliminary forum for review of quasi-judicial decisions" and that "no part of the forum or recommendation may be used as a basis for the deciding board" (i.e. Council).

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<sup>6</sup> <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4640115&GUID=B6921C68-D711-4649-A7AC-E69FC5474889>

## STAFF MEMORANDUM

Council Work Session – 10/21/2020

- Staff would need to carefully evaluate Advisory Board input based on available data from reliable, expert sources and other unbiased information. While staff already provides a cursory review of recommended conditions, currently all Advisory Board recommendations are forwarded to Council. With this new approach, the determination that a recommended condition should or should not be included in a resolution of SUP approval must include documented, fact-based reasoning and must relate back to whether the condition is warranted to support the four SUP Findings of Fact and is permissible under State law.
- To implement the staff evaluation of recommended conditions, Planning staff will need to build additional time into the SUP review process between Advisory Board meetings and the Council evidentiary hearing. Staff estimates that this approach would extend the typical process timeline by a month, including for those projects on an expedited track. The staff reports on SUP projects would also be lengthier.

EFFECTS OF NEW STATE LAW
<ul style="list-style-type: none"> <li>A. <i>On or before July 1, 2021</i>, the Council may no longer make decisions on SUP applications that are based, in any part, on recommendations of the Planning Commission or other Advisory Boards.</li> <li>B. Council may continue to consider such recommendations when making decisions on Conditional Zonings, Concept Plans, and other non-quasi-judicial applications.</li> </ul>
IMPLEMENTATION ACTIONS
<ul style="list-style-type: none"> <li>A. Council members must ensure that they are applying proper decision-making criteria.</li> <li>B. Update SUP procedures in LUMO so that Planning Commission recommendations are not transmitted to Council.</li> </ul>
POLICY CHOICES – UPDATED since 9/16/2020
<p>Council may choose to pursue one of the following options:</p> <ul style="list-style-type: none"> <li>A. <i>(NEW Option)</i> Advisory Boards continue to review SUP applications, with input transmitted to staff. Council will no longer receive Advisory Board recommendations. Staff would then carefully evaluate all Advisory Board input/recommendations to determine what is legal, reasonable, and warranted to include as a condition of approval.</li> <li>B. Discontinue review by Planning Commission and other Advisory Boards during the Special Use Permit review process.</li> <li>C. Advisory Boards continue to review SUP applications, with the understanding that it is an informal, preliminary discussion that will NOT be used by the Council when making a decision. Recommendations would not be transmitted.</li> </ul>



## STAFF MEMORANDUM

Council Work Session – 10/21/2020

### 2. **Approvals with Vested Rights**

Part II of Chapter 160D addresses how vested rights are assigned to development approvals. Council should consider what types of development approvals in Chapel Hill are appropriate to vest for two years or more.

**What is a vested right?** Chapter 160D provides the following guidance:

A vested right, once established as provided for in [160D] or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations...

**Why does 160D include vesting provisions?** These provisions limit local government's ability to make changes in land development regulations that would impact an approved development. For example, a LUMO text amendment cannot retroactively prohibit a use, or limit the floor area of a project, if a development approval with vested rights has already been granted.

As 160D is implemented, the Town needs to decide which, if any, development approvals should constitute *Site-Specific Vesting Plans*. This is the term used for development approvals that are vested for at least two years.

Based on the provisions of 160D, Council may identify any number of the following approval types as *Site-Specific Vesting Plans*:

- Conditional Zonings
- Special Use Permits
- Master Land Use Plans
- Site Plans
- Form District Permits
- Major Subdivisions
- Minor Subdivisions

Absent a decision to identify specific approval types, 160D states that all types listed above are considered *Site-Specific Vesting Plans* and WILL be vested for two years from the date of approval. If the Town does expressly identify *Site-Specific Vesting Plans*, then the rule by default for all other development approvals is that they are vested for one year.

There is a defined exception for multi-phase developments. If the project has at least 25 acres and is divided into multiple phases, then by default the development is vested for seven years following site plan approval of the initial phase.

Previous State statute had an equivalent term for development approvals with vested rights: *Site-specific development plan*. Accordingly, LUMO currently identifies Special Use Permits and Form District Permits as vested approvals using the previous term.

## STAFF MEMORANDUM

Council Work Session – 10/21/2020

**Would any approvals merit a longer vesting period?** Chapter 160D does provide the opportunity for a *Site-Specific Vesting Plan* to grant vested rights for up to five years. This may be done by definition in LUMO, or on an individual project basis. Generally speaking, a project with detailed plans and a lengthy development review process merits an extended vesting term.

While Council may specify the length of vesting terms by approval type, staff cautions against this approach because it would be difficult to administer. Instead, staff recommends:

1. Defining which development approval are considered *Site-Specific Vesting Plans*; and
2. Determining the appropriate standard vesting term for such approvals.

EFFECTS OF NEW STATE LAW
<ul style="list-style-type: none"> <li>A. LUMO may identify which development approvals constitute <i>Site-Specific Vesting Plans</i>. OR, if not specifically identified, any development approval that includes certain elements outlined in 160D will be considered a Site-specific vesting plan.</li> <li>B. Such approvals must provide vesting for at least two years. During that period, no change to development regulations or other zoning action may alter or diminish the approved use or intensity.</li> <li>C. Vesting of the approval may continue up to five years, subject to the discretion of Council.</li> <li>D. A multi-phase development containing 25 acres or more must be vested for seven years following site plan approval of the initial phase</li> <li>E. Building permits expire six months after issuance if work has not yet commenced.</li> <li>F. Other local development approvals, not falling under the categories listed above, expire one year after issuance if there has been no further activity.</li> </ul>
IMPLEMENTATION ACTIONS
<p>Substitute the term <i>Site-Specific Vesting Plan</i> in place of <i>Site-specific development plan</i> wherever the prior, equivalent term appears in LUMO.</p>
POLICY CHOICES
<p>Council may choose to pursue one of the following options for defining which development approvals constitute <i>Site-specific Vesting Plans</i>:</p> <ul style="list-style-type: none"> <li>A. Special Use Permits and Form District Permits, which are the only approvals that LUMO currently identifies as vested approvals.</li> <li>B. Include District-specific plans of Conditional Zoning approvals, which typically carry a vested rights condition in the rezoning action.</li> <li>C. Include other approvals allowed under Chapter 160D – any combination of Conditional Zonings, Master Land Use Plans, Site Plans, Major Subdivisions, and/or Minor Subdivisions</li> </ul>

## STAFF MEMORANDUM

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### 3. **Bona Fide Farms**

Under previous State law, bona fide farms have been exempt from zoning regulations when they are located in a County zoning jurisdiction (outside of town/city limits and town/city Extra-Territorial Jurisdiction). Chapter 160D goes further by stating that bona fide farms are also exempt when located within our Extra-Territorial Jurisdiction (ETJ).

A 'bona fide farm' is a property that is actively being used for agricultural, horticultural, and/or forestry purposes. Activities incidental to a farm, such as agritourism facilities and a residence for the farm operator, are considered part of the bona fide farm use. The operator must provide documentation for a property to qualify as a bona fide farm. Under Chapter 160D (and as a continuation of previous State law), any of the following forms of evidence are sufficient:

- Listing of the property in the County's Present-Use Value program
- A farm sales tax exemption certificate issued by the Department of Revenue
- Schedule F from the owner's/operator's most recent federal income tax return
- A forest management plan

Of the forms of evidence listed above, participation in the Present-Use Value (PUV) program is the easiest to track on a jurisdiction-wide basis, using publicly available data. Staff have determined that there are currently 12 parcels with PUV status located fully or partially in the Town's ETJ. The total area of these parcels is around 300 acres. These bona fide farm parcels are largely located in Chapel Hill's southern ETJ, with a few being located in the northeastern ETJ.

Other regulations, outside of zoning ordinances, are still applicable to these parcels. Chapter 160D expressly states that bona fide farms are subject to County floodplain regulations. There are also various public health and safety regulations administered by Orange County.

Zoning regulations administered by the Town are still applicable to any nonfarm activities on the same property as the bona fide farm. For example, if a minor utility station was proposed on the property, the Town would review plans to make sure it met the requirements in LUMO for a public service facility.

Bona fide farm status remains in place for a property so long as one of the four forms of evidence can be provided. If bona fide farm status ceases, then the property becomes subject to the Town's zoning regulations.

The above considerations mirror what is already in place under State law for bona fide farms in a County planning jurisdiction. The change created by Chapter 160D is to apply the same regulatory framework to bona fide farms in the ETJ.

**STAFF MEMORANDUM**

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<b>EFFECTS OF NEW STATE LAW</b>
Bona fide farms located in the Chapel Hill ETJ (outside of town limits) must be exempt from zoning regulations.
<b>IMPLEMENTATION ACTIONS</b>
LUMO currently acknowledges that bona fide farms in the Chapel Hill Transition Area (outside the ETJ, but where we have joint review with Orange County) are exempt from land use regulations. This language needs to be expanded to exempt any bona fide farm outside of municipal limits.
<b>POLICY CHOICES</b>
No policy choices need to be considered, beyond the Implementation Action listed above.

# STAFF MEMORANDUM

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## PROPOSED PROCESS

The steps below outline the process currently underway for executing 160D Updates.

<b>1.</b>	Staff assesses necessary changes to Town Code	March-July 2020
<b>2.</b>	<b>Council introduction</b>	June 2020
<b>3.</b>	Public Engagement – Building Familiarity	July-September 2020
<b>4.</b>	<b>Council discussion of necessary changes and policy options</b>	September - December 2020
<b>5.</b>	Public Engagement – Policy Choices	October 2020 - January 2021
<b>6.</b>	Draft Text Amendments	February 2021
<b>7.</b>	Planning Commission Review	February-March 2021
<b>8.</b>	<b>Council Review and Adoption</b>	April - May 2021
<b>9.</b>	Chapter 160D Effective Date	July 1, 2021 <i>Or upon Council adoption, whichever occurs first</i>

Opportunities for Council consideration are highlighted **in blue**.

# STAFF MEMORANDUM

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## PROPOSED PUBLIC ENGAGEMENT STRATEGY

The public engagement strategy for this project includes four phases, listed below. Following this Work Session, the project will shift into the **Policy Choices** phase of public engagement. Staff will be seeking stakeholder input on 160D updates that builds on the guidance provided by Council.

<b>I. Building Familiarity</b>	
Introduce the public to the key elements of Chapter 160D and how it compares with current Chapel Hill approaches to land use regulation. Educate the public on planning and zoning concepts that relate to the provisions of Chapter 160D.	
July - September 2020	Web page and Stakeholder outreach
<b>II. Policy Choices</b>	
Seek stakeholder feedback on implementing the provisions of Chapter 160D, once Council identifies alternatives to discuss with the community. Gather concerns about proposed changes.	
October 2020 - January 2021	Public meetings, Online survey
<b>III. Draft Text Amendments</b>	
Share draft Code language with the public. Determine support and ongoing concerns.	
February - May 2021	Public meetings, Online comment form
<b>IV. Implementation Resources</b>	
Educate the development community and others who interact with our development regulations about the adopted changes.	
Following Council adoption	Materials and methods to be determined