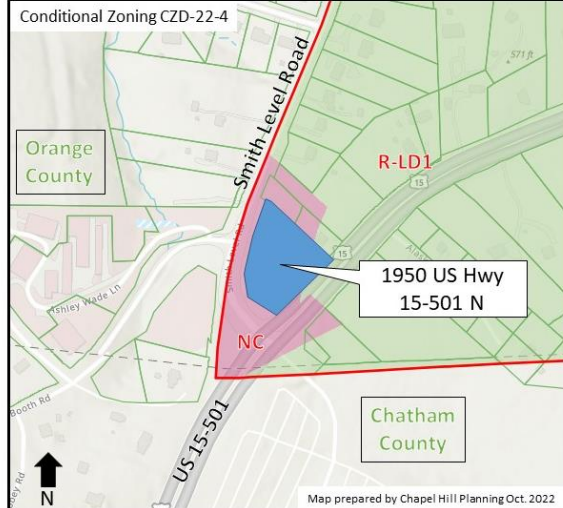




# PLANNING COMMISSION HEARING: CONDITIONAL ZONING APPLICATION FOR STARPOINT REFUEL LOCATED AT 1950 U.S. 15 501 (PROJECT #CZD-22-4)

## SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
 Britany Waddell, Director  
 Judy Johnson, Assistant Director  
 Jacob Hunt, Planner II

PROPERTY ADDRESS	MEETING DATE(S)	APPLICANT
1950 U.S. 15 501	May 2, 2023	McAdams on behalf of Refuel Operating Company, LLC
<b>STAFF RECOMMENDATION</b> <p>That the Planning Commission forward recommendations on Resolution A (Resolution of Consistency and Reasonableness) and recommendations and/or comments on Ordinance A.</p>		
<b>ZONING</b> <p><i>Existing:</i> Neighborhood Commercial (NC) and Residential Low Density (RLD-1)</p> <p><i>Proposed:</i> Neighborhood Commercial – Conditional Zoning District (NC-CZD)</p>	<b>PROJECT OVERVIEW</b> <p>This project proposes a redevelopment of an existing gas-station on approximately 1.14 acres of land consisting of:</p> <ul style="list-style-type: none"> <li>• 3,270 sq. ft. of commercial floor area</li> <li>• New covered pump station</li> <li>• Surface parking</li> </ul> <p>A Transportation Impact Analysis was not required for this application.</p>	
<b>PROCESS</b> <p>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.</p>		
<b>DECISION POINTS</b> <p><u>Modifications to Regulations:</u> The applicant is requesting modifications for the following:</p> <ul style="list-style-type: none"> <li>• Approval of modified buffers and setbacks</li> <li>• Removal of a requirement for the provision of sidewalks on site</li> </ul> <p><u>Other Considerations:</u></p> <ul style="list-style-type: none"> <li>• The provision of sidewalks will require the construction of crossing facilities at the intersection of Smith Level Road and U.S. 15 501</li> </ul>	<b>PROJECT LOCATION</b>  <p>Conditional Zoning CZD-22-4</p> <p>Map prepared by Chapel Hill Planning Oct. 2022</p>	
<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Technical Report &amp; Project Fact Sheet</li> <li>2. Draft Staff Presentation</li> <li>3. Resolution A, Resolution of Consistency and Reasonableness</li> <li>4. Ordinance A (Approving the Application)</li> <li>5. Resolution B (Denying the Application)</li> <li>6. Advisory Board Recommendations</li> <li>7. Modifications to Regulations (Applicant Request)</li> <li>8. Applicant Materials</li> </ol>	



# TECHNICAL REPORT

## PROPOSED ZONING

The application proposes applying a Neighborhood Commercial (NC-CZD) to the site to accommodate the proposed project.

The Land Use Management Ordinance (LUMO) states the intent of Neighborhood Commercial-Conditional Zoning District (NC-CZD) is "*The neighborhood commercial (N.C.) district is intended to provide for the development of low-intensity commercial and service centers that are accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhoods, and are of such a nature as to minimize conflicts with surrounding residential uses.*" (LUMO Section 3.3.3)

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).

## 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 a single 1.18 lot. The property is currently occupied by an existing gas station and retail spaces.
- The site fronts on US Highway 15-501 and Smith Level Road, both are North Carolina Department of Transportation (NCDOT) maintained arterial street and major travel corridor in southern Chapel Hill.
- The existing building on the site is has a mural painted on the façade facing Smith Level Road.
- The site is adjacent to the following zoning districts and uses:
  - North and West: Single family homes in the Residential Low-Density-1 (R-LD1) zoning district.
  - East: Orange County
  - South: Chatham County

- The site does not contain any notable hydrological features.
- The site is in the Watershed Protection District.

## PROPOSED MODIFICATIONS TO REGULATIONS

### 1) Section 5.6.6: Landscaping, screening and buffering: Required Buffers

The table below shows the buffers required and proposed buffers for this development.

Location	Required	Proposed
Eastern Buffer (single-family)	Type 'C' 20 ft.	12-20 ft. Modified Buffer
Eastern Buffer (15-501)	Type 'D' 30 ft.	Modified - Street trees
Western Buffer (Smith Level Rd)	Type 'D' 30 ft.	Modified - Street trees

*Staff Comment:* Buffers are required to separate a proposed development from adjacent major streets and different adjacent land uses or zoning designations to minimize potential nuisances like noise, dust, odor, litter, and glare of lights. Buffers are also intended to reduce the visual impact of unsightly aspects of adjacent development, provide for the separation of spaces, and to establish a sense of privacy. Staff believes that the Council could find a public purpose for buffer standards reduction the as current buffers fronting 15-501 and Smith Level Road do not meet LUMO standards. Modified buffers may improve adjacent site conditions. LUMO compliant buffers would limit developable area but may provide more protection from potential nuisances.

Justification is provided in the applicant's statement on Modifications to Regulations.

### 2) Section 3.8.2: Dimensional standards: Setbacks

The table below shows the buffers required and proposed buffers for this development.

Location of Setback	Required	Proposed
Street Setback (Smith Level Rod)	24 ft.	16 ft.

*Staff Comment:* Setbacks are also a tool to separate a proposed development from adjacent major streets and different adjacent land uses. Staff believes that the Council could find a public purpose for the decrease in setbacks as they will allow for the building of the entirety of the proposed commercial space. The applicant is also requesting a modification to allow a retaining wall inside of the Smith Level Road Street Setback to improve grading on the site.

Justification is provided in the applicant's statement on Modifications to Regulations.

### 3) Section 5.2.4: Access to Streets: Sidewalks

*Staff Comment:* LUMO standards require that every subdivided lot requires street improvements in line with he design manual. On this site those improvements include sidewalks. Staff agrees with he applicant that sidewalks should not be provided on US 15-501 due to the presence of a historic cemetery on the site. Does not agree that sidewalks are not needed on Smith Level Road do not support a modification to LUMO standards for that frontage.

Justification is provided in the applicant's statement on Modifications to Regulations.

## OTHER CONSIDERATIONS

### Sidewalks and crossing of 15-501

If Council does not grant a modification to LUMO sidewalk standards regarding sidewalks at Smith Level Road North Carolina Department of Transit (NCDOT) has said that the following will be necessary improvements:

- Crosswalks on US 15-501 and the Walmart entrance for connectivity
- Appropriate ramps meeting ADA and NCDOT Standards to accommodate crosswalks and connectivity including installation of sidewalk on the northeast corner of the Walmart entrance
- The crosswalks will be required to have pedestrian signals, pedestals, etcetera.

Staff is requesting that the developer acquire NCDOT for the LUMO required sidewalk as a condition of approval of their Zoning Compliance Permit.

## CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER DOCUMENTS

North Carolina General Statute 160D-605 requires the Town Council to consider a statement of Plan consistency when reviewing any Zoning Atlas Amendment. Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)<sup>1</sup>, the standards of the [Land Use Management Ordinance](#)<sup>2</sup>, and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)<sup>3</sup> and provides the following evaluation of consistency for the South Creek:

	Description of Plan Element	Staff Evaluation
<b>Land Use Category</b>	<p>The Future Land Use Map (FLUM) designation of the site reflects the current use on the site. A service station, truck rental facility, and retail space.</p> <p>Chapel Hill 2020 identifies this site as Commercial/Office</p> <p>These small-scale commercial/office areas provide for a wide range of businesses, retail/restaurant establishments, institutions, services, medical/health services, auxiliary hospitals, and offices. They are generally located near</p> <p>concentrations of existing or planned residences with access to major</p>	<p>The proposed rezoning is consistent with the uses envisioned by the FLUM because the proposed zoning district includes a retail establishment.</p> <p>Zoning conditions can require the pedestrian infrastructure envisioned by the FLUM to connect surrounding neighborhoods with retail opportunities.</p>

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

<sup>2</sup> [https://www.municode.com/library/#!/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeId=CO\\_APXALAUSMA](https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA)

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

	transportation/multi-modal corridors. Where possible, sidewalks and other pedestrian spaces should be activated as places to gather or otherwise spend time, such as sidewalk cafes and plazas. Off-street parking should be behind buildings.	
<b>Mobility And Connectivity</b>	The Mobility and Connectivity Plan does not list this site as a crossing opportunity across US 15 501.	The applicant is requesting a modification to sidewalk requirements if that is granted. They would not need to construct a crossing.
<b>Climate Action and Response</b>	<p>One of the top goals of the Climate Action and Response Plan is a reduction of Greenhouse Gas emissions by 50% by 2030 and to eventually become carbon neutral.</p> <p>The Plan also identifies transportation and land use actions that should be taken to reach these goals. Those include "create a town-wide electric vehicle (EV) charging station network" and "create walkable, bikeable, transit-served neighborhoods."</p>	<p>The applicant is proposing a use that will not work towards the Town's goal of a reduction greenhouse gas emissions or the contribute to the EV charging network. The proposed use encourages increased dependence on auto oriented development and fossil fuel.</p> <p>By not providing sidewalks on site or connections across road the proposed development does not contribute to a walkable neighborhood in the area.</p>
<b>Chapel Hill 2020 Goals</b>	<p>Opportunities for this application to support goals of Chapel Hill 2020 include:</p> <ul style="list-style-type: none"> <li>• Redevelopment of the site way allow for greater economic development on site (Community Prosperity and Engagement.2)</li> <li>• Reductions in impervious surface along with improved spill and cleanup requirements on the site could result in more positive environmental outcomes for this area of Town. (<i>Nurturing Our Community.2</i>)</li> <li>• A redeveloped service station would "recognize the importance of cars." This is stated goal of Chapel Hill 2020. (<i>Getting Around.1</i>)</li> <li>• The proposed zoning would support suburban development both in and outside of the Town. (<i>Getting Around.4</i>)</li> </ul> <p>Ways in which this application does not support goals of Chapel Hill 2020 include:</p> <ul style="list-style-type: none"> <li>• Without providing connection for pedestrians the application will not promote a safe, connected community (Community Prosperity and Engagement.3)</li> <li>• The development site as proposed does not encourage the growth of alternative forms of transportation including bicycling and walking. (<i>Getting Around.1</i>)</li> <li>• <i>The proposed use of service station/convenience store does not works towards a mitigation of congestion or improving air quality. It will likely have some negative impacts on each by encouraging automobile dependance (Getting Around.6)</i></li> </ul>	

## **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 analysis 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 is the parallel Conditional Zoning District of the existing District.
- The proposed Conditional Zoning district would reduce the amount of impervious surface on the site and be required to meet current LUMO stormwater standards.
- Zoning conditions are an inherent part of the proposed zoning district (it is only available as a CZD). 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 does not include the provision of sidewalks to address pedestrian needs in the area.

## FINDINGS OF FACT

Staff provides the following evaluation of the application under the three Findings of Fact identified in LUMO Section 4.4. LUMO states that the Zoning Atlas shall not be amended unless at least one of the Findings are made.

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

<b>FINDING #2:</b> The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.	
<b>Arguments</b>	<p>Staff notes that the existing building may have reached the end of its lifespan and redevelopment of the site may be needed to allow the current use to continue.</p> <p>To date, no arguments in opposition have been submitted or identified by staff.</p>
<b>Staff Evaluation</b>	The Council could make the finding that the proposed zoning amendment is necessary because of changing conditions in Chapel Hill.

<b>FINDING #3:</b> The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.	
<b>Arguments</b>	<p>Staff notes that the Conditional Zoning application could contribute to the purposes of the Comprehensive Plan through the following:</p> <ul style="list-style-type: none"><li>• Facilitating development that implements the Land Use Category designated on the Future Land Use Map.</li><li>• Supporting goals of Chapel Hill 2020 including <i>Community Prosperity and Engagement</i>, <i>Good Places-New Spaces</i>, and <i>Nurturing Our Community</i>.</li></ul> <p>To date, no arguments in opposition have been submitted or identified by staff.</p>
<b>Staff Evaluation</b>	The Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.





# PROJECT FACT SHEET



## Project Details



Site Description	
<b>Project Name</b>	Starpoint Refuel
<b>Address</b>	1950 US 15 501 S
<b>Property Size (NLA)</b>	49,876 (1.14 acres)
<b>Gross Land Area (GLA)</b>	54,864 sq. ft. (1.26 acres)
<b>Orange County Parcel Identifier Numbers</b>	9776680129
<b>Existing Zoning</b>	Neighborhood Commercial (NC) and Residential Low Density (RLD-1)
<b>Proposed Zoning</b>	Neighborhood Commercial – Conditional Zoning District (NC-CZD)

## Site Development Standards


Topic		Comment			Status
Development Intensity					
Use (Sec. 3.7)	Proposed Use: Service station/convenience store				
Inclusionary Zoning Ordinance (Sec. 3.10)	None Required				NA
Density (Sec. 3.8)	NA				NA
Dimensional Standards (Sec. 3.8)	Setbacks: 24 ft. street, 8 ft. interior, 11 ft. solar – all minimums Proposed: 16 ft. setback proposed Setback (primary) height: 34 ft. maximum Proposed: Setback (primary) building heights will comply Core (secondary) height: 60 ft. maximum Proposed: Setback (secondary) building heights will comply				M
Floor area (Sec. 3.8)	Floor Area Ratio (FAR): .264 (14,484 Sq. Ft.) Proposed: .06 (3,270 Sq. Ft.)				
Landscape					
Buffers (Sec. 5.6.2)		<u>Adjacent Use/Zoning</u>	<u>Required</u>	<u>Proposed</u>	M
	South:	US 15-501 (arterial)/ Smith Level Road (arterial)	30 ft. Type D	Modified – Street Trees	



	North:	Single-family/Vacant Land	20 ft. Type C/10 ft. Type B	12-20' Modified Buffer/10 ft. Type B	
	East:	US 15-501 (arterial)	30 ft. Type D	Modified – Street Trees	
	West:	Smith Level Road (arterial)	30 ft. Type D	Modified – Street Trees	
<b>Tree Canopy (Sec. 5.7)</b>	<i>Minimum required:</i> 14,962 sq. ft. (30% of NLA) <i>Proposed:</i> Final Plans application must comply				<b>FP</b>
<b>Parking Landscape Standards (Sec. 5.9.6)</b>	Final Plans application must comply				<b>FP</b>
<b>Environment</b>					
<b>Resource Conservation District (RCD) Uses (Sec. 3.6.3)</b>	Final Plans application must comply				<b>FP</b>
<b>RCD Dimensional Standards (Sec. 3.6.3)</b>	Final Plans application must comply				<b>FP</b>
<b>Erosion Control (Sec. 5.3.1)</b>	Orange County Erosion Control permit required				<b>FP</b>
<b>Steep Slopes Land Disturbance (Sec. 5.3.2)</b>	Final Plans application must comply				<b>FP</b>
<b>Stormwater Management (Sec. 5.4)</b>	Meet or exceed LUMO standards				<b>FP</b>
<b>Land Disturbance</b>	<i>Proposed:</i> 48,600 sq. ft.				
<b>Impervious Surface</b>	<i>Existing:</i> 38,747 sq. ft. (70.6%) <i>Maximum allowed:</i> 38,405 sq. ft. (70%) <i>Proposed:</i> 29,619 sq. ft. (54%)				
<b>Solid Waste &amp; Recycling (Sec. 5.13)</b>	Application must comply				<b>FP</b>
<b>Jordan Riparian Buffer (Sec. 5.18)</b>	Application must comply				<b>FP</b>
<b>Access &amp; Circulation</b>					
<b>Traffic Impact Analysis (Sec. 5.8)</b>	TIA exempt				<b>NA</b>
<b>Road Improvements (Sec. 5.8)</b>	The developer proposes improvements to Smith Level Road to accommodate the proposed vehicular access points.				<b>FP</b>
<b>Vehicular Access (Sec. 5.8)</b>	Access points proposed on US 15-501 and the intersection of Smith Level Rd and Booth Rd. NCDOT is supportive of right in/right out access on US 15 501 and a full access at Smith Level Road.				<b>FP</b>

<b>Bicycle Improvements (Sec. 5.8)</b>	The developer is requesting a modification to sidewalk requirements.	<b>M</b>
<b>Pedestrian Improvements (Sec. 5.8)</b>	The developer is requesting a modification to sidewalk requirements.	<b>M</b>
<b>Transit Improvements (Sec. 5.8)</b>	None	<b>FP</b>
<b>Off-street Vehicular Parking (Sec. 5.9)</b>	<i>Minimum required:</i> 9 with 1 accessible space <i>Maximum off-street parking allowed:</i> 14 <i>Proposed:</i> 9 with 1 accessible space	
<b>Bicycle Parking (Sec. 5.9)</b>	<i>Minimum required:</i> 6 spaces <i>Proposed:</i> 8 spaces	
<b>Electric Vehicle Parking</b>	None Provided	<b>NA</b>
<b>Parking Design Standards (Sec. 5.9)</b>	Application must comply	<b>FP</b>
<b>Loading (Sec 5.9)</b>	Application must comply	<b>FP</b>
<b>Technical</b>		
<b>Fire</b>	Built to Town Standards	<b>FP</b>
<b>Recreation Area (Sec. 5.5)</b>	NA	NA
<b>Lighting Plan (Sec. 5.11)</b>	Built to Town Standards; not to exceed 0.3 footcandles at property line	<b>FP</b>
<b>Signage (Sec. 5.14)</b>	Built to Town Standards	<b>FP</b>
<b>Schools Adequate Public Facilities (Sec. 5.16)</b>	NA	<b>NA</b>
<b>Homeowners Association (Sec. 4.6)</b>	NA	<b>NA</b>

## Project Summary Legend

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