

# TECHNICAL REPORT

Council Business Meeting – 06/26/2019



## **LUMO TEXT AMENDMENT FOR BLUE HILL STORMWATER MANAGEMENT AND AFFORDABLE HOUSING**

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The following Technical Report describes proposed modifications to the Form District Regulations of the Blue Hill District for purposes of promoting affordable housing and maintaining stormwater treatment benefits while remaining in accord with revised State statute.

### **BACKGROUND**

May 12, 2014	Ephesus-Fordham (Blue Hill) Form-Based Code adopted, with stormwater requirement to treat 50% of post-construction total impervious area for 85% Total Suspended Solid removal.
March 14, 2018	Council members submitted a petition on the Blue Hill District, which included an interest in identifying strategies to meet affordable housing goals for the District
December 27, 2018	Session Law 2018-145, enacted by the NC General Assembly with a provision that local governments may only require stormwater controls to treat the net increase in impervious area of a redeveloped site.
March 13, 2019	Town staff updates the Council on (a) possible strategies for affordable housing in the Blue Hill District, and (b) potential modifications to the Form-Based Code in response to State legislation.
April – June 2019	Outreach to potential stakeholder groups, including: Stormwater Management Utility Advisory Board, Environmental Stewardship Advisory Board, Housing Advisory Board, Community Design Commission, and the development community
May 13, 2019	Public Information Meeting
May 21, 2019	Planning Commission recommendation
May 22, 2019	Council Public Hearing on the proposed amendments
June 26, 2019	Council considers action on the proposed amendments

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## UPDATES SINCE THE START OF THE PUBLIC HEARING

Staff made the following change to the proposed text amendment in response to Council's interest in increasing green space for Conventional Path projects:

- The Conventional Path would now be subject to the Tree Canopy Coverage standards of LUMO 5.7.2:
  - 30%-40% canopy coverage provided for each site, through a combination of preserved trees and new plantings
  - Area around trees must be generally open/undisturbed to meet planting requirements
  - Greater tree coverage provides a number of benefits, including passive stormwater treatment due to increased vegetation and pervious area
- The Enhanced Development Path would exempt projects from Tree Canopy Coverage standards, consistent with current standards for Blue Hill

Staff prepared a second version of the text amendment ordinance (Ordinance B) to give Council the option of incorporating a recommendation from the Community Design

Commission on building placement in relation to the street:

- For the Conventional Path, the build-to zone (percent of lot width with a building or open space placed adjacent to the street) would be applicable to only the Primary Frontage of the lot. On other frontages, any additional buildings would need to be placed near the street, but not for a minimum percentage of lot width
- The alternative (as reflected in Ordinance A) is to exempt Conventional Path projects from minimum build-to percentages on all frontages, but to require all buildings to be placed near the street
- The Enhanced Development path would require minimum build-to percentages on all frontages, consistent with current standards for Blue Hill

## RESPONSE TO COUNCIL FEEDBACK FROM THE PUBLIC HEARING

**Stormwater Facility Costs:** Council requested that specific costs for stormwater facilities be highlighted in the financial modeling of the different development scenarios. Staff subsequently updated the information on stormwater costs, which is provided below along with a summary of total development costs as determined by financial models.

### *Stormwater Facility Costs (component of Buildings & Improvements)*

	<b>Conventional Path</b> No net increase in impervious area	<b>Enhanced Development Path</b> 103,000 sq ft post-construction impervious area
<b>Water Quality Treatment</b>	\$0	\$39,055 (sand filter)
<b>Water Quantity Detention</b>	\$0	\$160,330 (underground vault)
<b>Total Stormwater Costs</b>	\$0	\$199,385
<b>Stormwater as Percent of Building &amp; Improvements</b>	0.0%	0.4%

Sources: Town Stormwater Engineering staff; Lower Booker Creek Subwatershed Study

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## ***Development Cost Summary: Sample 3.6-acre site with Stream***

	<b>Conventional Path</b> 55,000 sq ft development	<b>Enhanced Development Path</b> 305,000 sq ft development
<b>Land Cost-Value</b>	\$2,809,917	\$3,559,229
<b>Building &amp; Improvements Cost-Value</b>	\$9,456,863	\$52,977,780
<b>Total Cost-Value</b>	<b>\$12,266,780</b>	<b>\$56,537,009</b>
<b>Land as Percent of Total</b>	22.9%	6.3%

Sources: Town Economic Development staff; Recent comparable land sales and construction projects

**Community Design Commission Input:** The CDC discussed the design and placemaking aspects of the proposed text amendment at a special meeting on June 10, 2019. Commission members provided the following input:

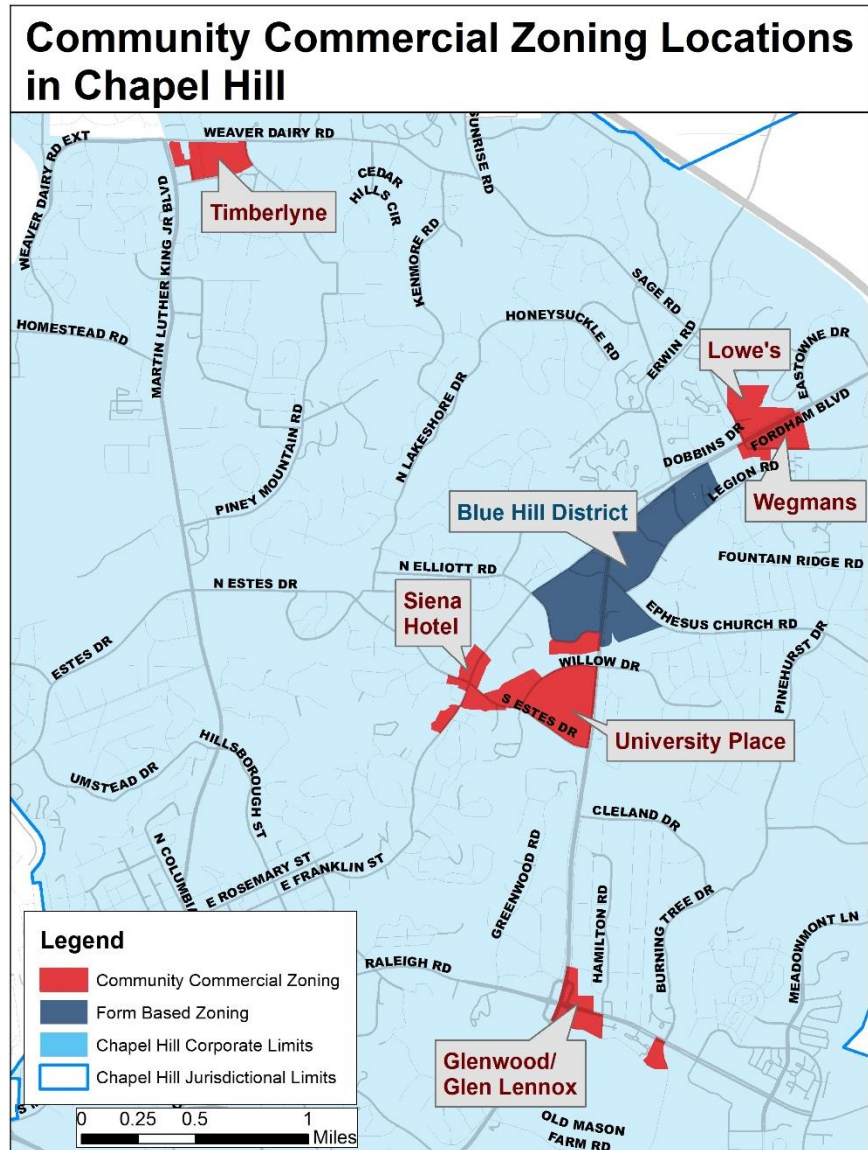
- Support for the proposed two-path approach
- Recommendation that for the Conventional Path, the build-to percentage be applied to the Primary Frontage only. This would encourage more buildings on at least one side of the site to support walkability
- Recommendation that following this text amendment, the Council consider opportunities to secure other community benefits (eg affordable housing, more stream protection, more massing controls, more open space) as conditions for the Enhanced Development path

**Legal Viability:** Included in the Council package is a memorandum from the Town Attorney affirming the legal viability of the proposed 'Conventional Path', with particular consideration of the recent State legislation.

The 'Conventional Path' has a density and floor area allowance equivalent to the Community Commercial (CC) district. The map on the following page shows locations in town that have developed under the CC zoning, to provide context on what scale of development the zoning generally supports.

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## PROPOSED TEXT AMENDMENTS RELATED TO AFFORDABLE HOUSING

Staff proposes the following update to Form District regulations, as a preliminary step while continuing to design affordable housing strategies:

Identifying Affordable Housing as Part of the District's Purpose: A statement would be added to the introductory provisions of the Form-Based Code to identify "diverse and affordable housing options" as one of the purposes of the District, alongside a mix of uses and high-quality public realm. While this change does not set any specific requirement for affordable housing in the District, it provides a foundation for future efforts.

## PROPOSED TEXT AMENDMENTS RELATED TO STORMWATER MANAGEMENT

Staff proposes updates to Form District regulations that would incentivize enhanced stormwater treatment while satisfying the requirements of State statutes:

New Paths for Application Review: The zoning regulations for the District would be restructured to allow applicants to select between two paths for review: Conventional or Enhanced Development. All applications for properties zoned WX-5, WX-7, WR-3, or WR-7 would subsequently follow one of these paths for development or redevelopment as determined by the applicant. The existing requirements for development in the Blue Hill District are the same as Path 2: Enhanced Stormwater.

1. Conventional: Applications that provide stormwater treatment for only the net increase in impervious area would be subject to limitations on the size of development that are modeled closely on the CC (Community Commercial) zoning district. This includes maximum density, floor area ratio, height, and Resource Conservation Districts for stream features. Projects would be reviewed by Town Council for a Special Use Permit if they exceed the LUMO thresholds for building square footage and land disturbance, or by Planning Commission if they are below these thresholds.
2. Enhanced Development: Applications that choose to provide stormwater treatment for 50% of post-construction impervious area would be able to follow all the current standards of the Blue Hill District. The existing development potential would become a 'density bonus' for projects that provide more stormwater treatment. A Special Use Permit would not typically be required and the project would start with administrative review.

Further detail on the standards applicable to each path is provided on the following page. Note that some standards vary based on the Subdistrict of the Blue Hill Form District (Walkable Residential, WR-, or Walkable Mixed Use, WX-).

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STANDARD	PATH 1: CONVENTIONAL	PATH 2: ENHANCED DEVELOPMENT
Stormwater Condition	Water quality treatment of the net increase in impervious area, when this is less than 50% post-construction impervious area	Water quality treatment of 50% post-construction impervious area or greater
Permitted Uses	<i>[No change proposed]</i> A variety of Commercial, Office, Lodging, Institutional, and Multifamily Residential uses (no Single-Family Residential)	
Maximum Density	15.0 units/acre	N/A
Maximum FAR (Floor Area Ratio)	429 sq ft of building per 1,000 sq ft of land	N/A
Maximum Height	At setback line: 34 ft Interior to site: 45 ft for WR-3; 60 ft otherwise	WX-7 and WR-7: 7 stories and 90 ft WX-5: 5 stories and 60 ft WR-3: 3 stories and 45 ft
Minimum Height	<i>[No change proposed]</i> Minimum 2-story building height Minimum story heights for ground floor and upper floors	
(RCDs) Resource Conservation Districts	Required per LUMO 3.6.3	Not required
Tree Canopy	If subject to Special Use Permit review, 40% canopy coverage for Mixed Use project sites or 30% coverage for single use projects sites	Not required
Street Setbacks	<i>[No change proposed]</i> Minimum 0 ft or 5 ft depending on Frontage type Maximum 10 ft or more depending on Frontage type No surface parking in setback areas on Type A Frontages	
Build-to Requirement	2/3 the width of each building front facade must be located between the minimum and maximum setback lines <i>OPTION (see second version of ordinance):</i> In addition to the above, 60%-80% of the lot width on the primary frontage must have a building facade or open space located between the minimum and maximum setback lines	60%-80% of the lot width on each frontage must have a building facade or open space located between the minimum and maximum setback lines
Lot Considerations	5,500 sq ft minimum land area 50 ft minimum lot width	Residential: 1,700 sq ft min land area, 20 ft min lot width Nonresidential: 5,000 sq ft min land area, 50 ft min lot width
Streetscape	<i>[No change proposed]</i> 6 ft – 10 ft wide sidewalks and 4 ft – 8 ft wide planting zones, depending on Frontage type	

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STANDARD	PATH 1: CONVENTIONAL	PATH 2: ENHANCED DEVELOPMENT
Open Space	[No change proposed] 6% of lot must be Outdoor Amenity Space Residential projects must also provide Recreation Space	
Connectivity	[No change proposed] 450 ft maximum block length; 1800 ft maximum block perimeter Longer buildings require pass-throughs spaced at 330 ft	
Building Mass	[No change proposed] Varied massing required for buildings 4 stories and above Upper stories limited to 70% floor area of lower stories For buildings set back less than 20 ft, requirement for upper story step backs or defined building modules	
Building Form	[No change proposed] Minimum requirements for transparency (windows) Maximum area for blank walls Maximum spacing for building entrances List of allowable building materials	
Building Elements	[No change proposed] Subdistrict determines whether features such as balconies, arcades, awnings, etc. are permitted	
Vehicular Parking	[No change proposed] Provide parking spaces as required in the Form-Based Code	
Bicycle Parking	[No change proposed] Provide bicycle parking as required in the Form-Based Code	
Other Development Standards	[No change proposed] Meet standards for Landscaping, Site Lighting, and Outdoor Display & Storage as defined in the Form-Based Code	
Application Review	Projects exceeding 20,000 sq ft of building area or 40,000 sq ft of land disturbance subject to Special Use Permit review by Town Council, otherwise subject to Site Plan Review  Final plans reviewed for Form District Permit and Certificate of Appropriateness	Final plans reviewed for Form District Permit and Certificate of Appropriateness

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## ZONING AMENDMENT FINDINGS OF FACT

All information submitted at the public hearing will be included in the record of the hearing. Based on the comments and documentation submitted, the Council will consider whether it can make one or more of three required findings (listed below A-C) for enactment of the Land Use Management Ordinance Text Amendment.

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 shall not be amended except:

- A.** To correct a manifest error in the chapter; or
- B.** Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- C.** To achieve the purposes of the Comprehensive Plan.

Following is a staff response to the three required considerations:

- A.** To correct a manifest error in the chapter

Staff Comment: We believe information in the record to date can be summarized as follows:

Argument in Support: To date no arguments in support have been submitted.

Argument in Opposition: To date no arguments in opposition have been submitted.

- B.** Because of changed or changing conditions in a particular area or in the jurisdiction generally

Staff Comment: We believe the information in the record to date can be summarized as follows:

Argument in Support: This text amendment responds to recent revisions in State statute as enacted by Session Law 2018-145. The change in statute affects local government authority over stormwater treatment requirements and specifically restricts the enforceability of current stormwater standards for the Blue Hill District.

Argument in Opposition: To date no arguments in opposition have been submitted.

- C.** To achieve the purposes of the Comprehensive Plan

Staff Comment: We believe the information in the record to date can be summarized as follows:

Argument in Support: Relevant goals and objectives in the Chapel Hill 2020 Comprehensive Plan include, but are not limited to:

- A range of housing options for current and future residents (Goal A Place for Everyone.3)
- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal Good Places New Spaces.3)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Goal Good Places New Spaces.8)
- Maintain and improve air quality and water quality, and manage stormwater to heal local waterways and conserve biological ecosystems within the town boundaries and the Extra Territorial Jurisdiction (Goal Nurturing Our Community.2)
- Adopt an integrated development review process that is fair and transparent and that incorporates the Chapel Hill 2020 environmental goals (Goal Nurturing Our Community.5)

Argument in Opposition: To date no arguments in opposition have been submitted.