



HISTORIC DISTRICT COMMISSION: TEXT AMENDMENTS TO LAND USE MANAGEMENT ORDINANCE SECTION 3.6.2 AND 8.4

STAFF REPORT

TOWN OF CHAPEL HILL PLANNING DEPARTMENT
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AMENDMENT REQUEST		DATE	APPLICANT
Amend the Historic District Commission (HDC) sections of the Land Use Management Ordinance (LUMO) to improve HDC procedures and provide clarity to decisions of the HDC.		October 15, 2019	Town of Chapel Hill Planning Department
STAFF RECOMMENDATION			
Staff recommends that the HDC review the proposed text amendments and forward a recommendation to the Town Council in time for the Council’s review at the October 30, 2019 Public Hearing.			
PROCESS		DECISION POINTS & BACKGROUND	
The LUMO requires the HDC and Planning Commission to make recommendations to the Town Council on the proposed text amendment. The Council will then hold a public hearing to consider the proposed amendments.		<ul style="list-style-type: none">• On October 5, 2017 the Council Committee on Boards and Commissions considered a number of changes to the LUMO related to the HDC.• In 2019, the HDC and Town Staff proposed additional amendments• Staff presented an analysis of all recommendations at the September 23, 2019 Council Committee on Boards and Commission meeting, and the Committee recommended moving forward with seven text amendments.	
TEXT AMENDMENT OVERVIEW			
These text amendments are in response to a recommendation from the Council Committee on Boards and Commissions to improve HDC procedures and provide clarity to decisions of the HDC. The Council Committee took into consideration the recommendations from the Council Committee in 2017, a memo to the Town Council from the HDC, staff analysis, public comment, and previous research conducted by the HDC and staff into their recommendation to move forward with the seven items below. These proposed text amendments would modify the HDC sections of the Land Use Management Ordinance, as follows:			
<div><div></div><div><div>1. Reduce time for action on Certificates of Appropriateness (COAs) (3.6.2(d)(4))</div><div>2. Clarify language for resubmittals of previously denied applications (3.6.2(d)(7))</div><div>3. Provide an expiration for COAs (3.6.2(d)(8))</div><div>4. Require findings of fact to reference evidence and clarify the congruity standard (3.6.2(e)(3))</div><div>5. Clarify HDC voting procedures (8.4.9)</div><div>6. Require updated inventories (8.4.10)</div></div></div>			
Specific language for each of the above amendments can be found in the attached summary.			
ATTACHMENTS		<div><div></div><div><div>1. Text Amendment Summary</div><div>2. September 23, 2019 Staff Memo to Council Committee on Boards & Commissions - Recommendations and Analysis Regarding HDC Procedures</div><div>3. Resolution of Consistency</div><div>4. Ordinance A (Enactment of Land Use Management Text Amendment Proposal)</div><div>5. Resolution B (Deny Land Use Management Text Amendment Proposal)</div></div></div>	



SUMMARY: TEXT AMENDMENTS TO LAND USE MANAGEMENT ORDINANCE REGARDING HISTORIC DISTRICT COMMISSION PROCEDURES

The following is a summary of the proposed text amendments to improve Historic District Commission procedures and provide clarity for decision-making.

1. Section 3.6.2(d)(4) Procedures for approval of certificates of appropriateness

"(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."

2. Section 3.6.2(d)(7) Procedures for approval of certificates of appropriateness

"(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."

3. Section 3.6.2(d)(8) Procedures for approval of certificates of appropriateness

"(8) A certificate 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 shall expire and the applicant shall be required to reapply and obtain a new Certificate before commencing further work. 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 permit holder submitted the request within sixty (60) days of the completion date;
- B. The permit 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."

4. Section 3.6.2(e)(3) Review criteria

"(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."

5. Section 8.4.9 Quorum and voting

"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."

6. Section 8.4.10 Historical and Architectural Significance Maps

"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."