

## Recommendations Regarding Historic District Commission Procedures

Text Amendment	Staff Recommendation	Proposed Draft Text Amendment / Next Steps
1. Require the findings of fact to reference the evidence supporting the findings, to assist an applicant and any potential reviewing body.	Staff agrees that the HDC’s recommended language may be useful for some jurisdictions but that the Committee’s recommended language is sufficient to meet the interest described in amendment #1.	LUMO Sec 3.6.2(e)(3): <u>“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.”</u>
2. Clarify the congruity standard as an approval/ denial standard.	Same as above.	LUMO Sec 3.6.2(e)(3): “The commission, using the criteria below, shall make findings of fact indicating <del>the extent to which whether</del> the application is or is not congruous with the historic aspects of the historic district.”
3. Reduce the amount of time for action to be taken on an application for a certificate of appropriateness.	Staff agrees with the Commission’s recommendation of a 90 day time limit but recommends requiring applicant consent for time-limit extensions. Before considering an additional meeting per month, staff and the Commission leadership could work on a process to further streamline meetings. Even with additional capacity, two meetings per month would be atypical for an advisory board and would result in additional after-hour commitments for both board members and staff.	LUMO Sec 3.6.2(d)(4): <u>“The Commission shall take action on applications for certificates of appropriateness within ninety (90) days following the end of the first meeting at which the application is included on the Commission’s agenda, <del>Within one hundred eighty (180) days of the acceptance of an application,</del> or within such further time consented to by written notice from the applicant;. The town manager shall take action on applications for certificates of appropriateness, as authorized by the Design Guidelines, within ninety (90) days of the acceptance of an application.</u> The town manager or the commission shall approve the application, approve the application with conditions, or deny the application. Such action shall be based upon the review criteria established in section 3.6.2 of this article. 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. <u>The time periods for action by the Commission shall be stayed during periods of appeal by any party.</u>
4. Clarify the language on submittal of a new application as opposed to reconsideration of an application which has been denied.	Staff believes that the amendment recommended by the Council Committee sufficiently clarifies the process for reconsideration of a previously denied application in a way that is consistent with other Town applications. We also agree that the additional language from the HDC’s memo regarding “substantive change” could be added to help provide more	LUMO Sec 3.6.2(d)(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 <del>submitted</del> <u>accepted by the town manager</u> only if substantive change, <u>with respect to the reasons for its denial,</u> is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

	specific guidance to the town manager and staff about how to review new applications for possible acceptance.	<u>Reconsideration of an application which has been denied shall be governed by the Commission's Rules of Procedure, but once accepted by the town manager, a new application must be heard and decided upon by the Commission."</u>
5. Clarify the HDC's responsibilities with respect to Concept Plan Review.	Staff is continuing to work with the Town Attorney and the HDC's contracted counsel to develop a solution to this issue.	Consult with Town Attorney and HDC's contracted counsel.
6. Clarify Council's expectations of HDC and BOA members.	Staff would be happy to have members sign an additional document if the Council Committee deems it appropriate.	Ethics Pledge to be updated.
7. Reflect the proper, legal relationship of the zoning setback and height restrictions to the more subjective congruity requirements contained in the HDC ordinance	The HDC has design review authority, which is explained in the Design Guidelines, and will be further refined and updated with the Design Guidelines rewrite. Staff believes that the HDC's request regarding setbacks and height limits could be incorporated into the Design Guidelines rewrite as appropriate.	Proceed with Design Guidelines rewrite. The timeline is below: 1. Labor Day – Contract award for CLG funds in the amount of \$10,000 grant sent to Town 2. September 25th – Council adjusts budget to provide matching \$15,000 for Design Guidelines August 21, 2020 – Project completion
8. Adopt a Historic Landmarks program	Staff agrees that a Historic Landmarks program is a worthwhile program but current staff capacity would not support the implementation of such a program. Additional considerations to note are that a Landmarking program would not save properties from demolition, but, through property tax benefits, could provide an alternative incentive to property owners considering demolition.	None at this time.
9. Replace the provisions related to Demolition through Neglect with the provisions of the Model Ordinance	Staff believes that the current Demolition through Neglect provisions in the LUMO are robust and provide more standards than the Model Ordinance, and recommend keeping the current language. However, staff would be happy to consider specific revisions to the current ordinance that the HDC might recommend.	None at this time. Staff is researching best practices from other communities and will share findings with the HDC for further discussion.
10. Provide for a time for performance (or expiration) of HDC Certificates of Appropriateness	Staff agrees that an expiration date for COAs is appropriate, and recommends using the HDC's language, with a minor change to tie the timing to building permits, which aligns with the ZCP requirements.	LUMO 3.6.2(d)(8): <u>"(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 a building permit has not been obtained within the aforementioned period, or, for certificates not requiring a building permit, if the authorized work has not commenced within that period, and if the duration of the valid certificate has not been extended by the Commission, such certificate shall immediately expire and the applicant shall be required to reapply and obtain a new Certificate before commencing further work."</u>

11. Clarify the legal basis for application of the Design Guidelines, as being critical and binding upon the Commission’s review of COA applications	Staff agrees that this revision is necessary. Following the adoption of the revised Design Guidelines, the LUMO could be further refined.	LUMO 3.6.2(e)(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, <u>as informed by the Design Guidelines.</u> ”
12. Clarify that applicants bear the burden of proving that their proposed projects are congruous with the historic character of the District	Staff agrees that a “disclaimer” statement would be useful and recommends updating the application form, which the applicant signs.	Application form to be updated.
13. Provide, consistent with the Model Ordinance, that the Commission’s purview includes review authority over sites, objects, landscapes, and major trees affecting District character, such that COA applications would be reviewed in light of impacts the proposed development would cause to these features of the District	Staff recommends that the section of the Design Guidelines related to “Significant Site Features” be revised in the upcoming Design Guidelines rewrite to address concerns related to historic landscapes. Review of landscaping and trees would constitute an extension of the HDC’s current authority. If the Council wishes to grant these additional duties and powers, staff recommends that there be adequate guiding standards to accompany this change. Additionally, working with the HDC to develop other solutions for specific concerns, or working through programs such as the Community Tree Program, may help address the HDC’s interest.	See response to #7, above.
14. Require the creation, maintenance, and regular updating of information (photographs and other databases) describing the inventory of historic properties in the Districts	Staff agrees that regular updates of inventories are an important part of historic preservation, and recommends using the language recommended by the HDC.	LUMO 8.4.10: “The commission shall prepare, maintain, <del>and</del> consult <del>maps</del> , and make <u>available to the public inventories, including photographs and assessments,</u> showing the historic and architectural significance of <u>buildings, structures, sites, areas, objects, and cultural landscapes</u> within the historic districts. Such <del>maps</del> <u>inventories of historic resources</u> shall be <u>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)</u> <del>updated at least every five (5) years.</del> ”
15. Clarify voting procedures to be consistent with General Statute	The Historic District Commission and Town staff determined that current voting procedures are in conflict with North Carolina General Statutes for voting requirements related to quasi-judicial hearings.	Language to be drafted after consultation with Town Attorney.