



CONSIDER AN APPLICATION FOR CONDITIONAL ZONING – PHI GAMMA DELTA AT 108 WEST CAMERON AVENUE

SUMMARY REPORT

TOWN OF CHAPEL HILL PLANNING
Judy Johnson, Interim Planning Director
Anya Grahn, Senior Planner

PROPERTY ADDRESS 108 W. Cameron Avenue	MEETING DATE(S) March 10, 2020 – ESAB and HDC March 24, 2020 – TCAB April 7, 2020 – Planning Commission	APPLICANT Kevin R. Hornik, The Brough Law Firm
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STAFF RECOMMENDATION

That the, Environmental Stewardship Advisory Board, Historic District Commission, Transportation and Connectivity Advisory Board, and Planning Commission review and make a recommendation on the application to the Town Council.

PROCESS

Town Council approved a Special Use Permit (SUP) at this site on July 7, 1997, and the applicant is requesting to replace that entitlement with this Conditional Zoning application.

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.

On request by the holder of a SUP, the Town Council can approve the abandonment of the permit if the development authorized by the permit or modification no longer requires a SUP and all conditions of the SUP have been satisfied.

DECISION POINTS The applicant is requesting the following:

- Abandonment of the Special Use Permit, dated July 7, 1997 and replacing with Conditional Zoning.
- Modification to only permit the fraternity dwelling use.
- Modification to reduce required landscape buffers.

PROJECT OVERVIEW

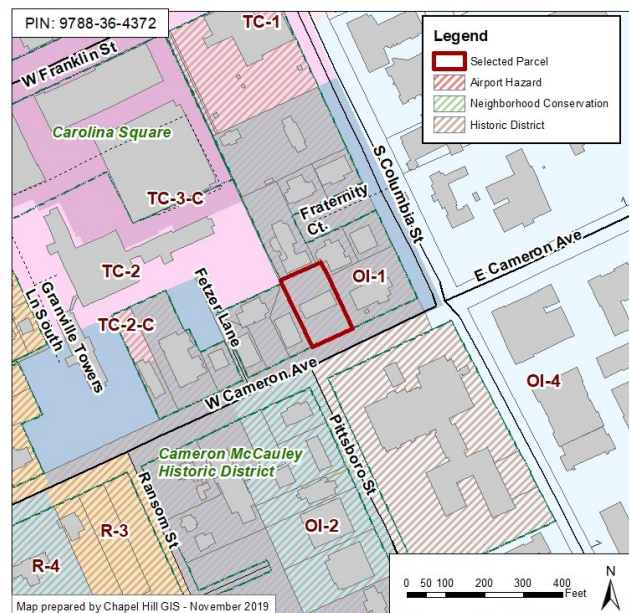
The applicant proposes to abandon the existing Special Use Permit (SUP) and proposes Conditional Zoning in order to allow the following:

- Enclosure of a rear porch that increased floor area; and
- Removal of on-site parking.

The site is:

- Currently zoned Office/Institutional – 1 (OI-1);
- Proposed rezoning to Office/Institutional – 3 – Conditional Zoning (OI-3-CZ)
- Lot size is 23,763 sq. ft. (0.55 acres)

PROJECT LOCATION



ATTACHMENTS

1. Project Summary Form
2. Draft Resolution A
3. Draft Resolution B (Denying the Application)
4. Applicant's Materials
5. Submitted Plans



TECHNICAL REPORT

PROJECT OVERVIEW

January 17, 2019	The Town issues a Stop Work on the property for changes that have occurred without the required permits. These include replacing screened openings on the porch with windows to create habitable space, new patio/hardscape, and removing on-site parking.
February 15, 2019	The Town issues a Notice of Violation to Phi Gamma Delta for violating the terms and conditions associated with maximum floor area and minimum parking requirements, as outlined in the July 7, 1997 Special Use Permit.
September 10, 2019	The Historic District Commission (HDC) approves an After-the-Fact Certificate of Appropriateness (ATF COA) for the replacement of screened openings with glass windows on the porch, expanding the floor area of the building; installation of a staircase from the rear deck to ground level as an emergency exit; installation of a fieldstone rear patio; and removal of on-site parking area and replacing with a lawn.
September 10, 2019	Concept Plan for Phi Gamma Delta is presented to the HDC. The applicant presented the 1,044 square foot enclosure of a rear porch that increased the floor area as well as removal of on-site parking.
January 8, 2020	Concept Plan for Phi Gamma Delta is presented to Council.

Connections to other Documents:

Town staff has reviewed this application for compliance with the themes from the [2020 Comprehensive Plan](#)¹, the standards of the [Land Use Management Ordinance](#)², and the [Town of Chapel Hill, NC : Design Manual and Standard Details](#)³ and offers the following evaluation:

Comprehensive Plan Themes: The following are themes from the 2020 Comprehensive Plan, adopted June 25, 2012:

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

² https://www.municode.com/library/#!/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA

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

Council Goals:

<input type="checkbox"/>		Create a Place for Everyone	<input type="checkbox"/>		Develop Good Places, New Spaces
<input type="checkbox"/>		Support Community Prosperity	<input type="checkbox"/>		Nurture Our Community
<input type="checkbox"/>		Facilitate Getting Around	<input checked="" type="checkbox"/>		Grow Town and Gown Collaboration

Staff believes the Phi Gamma Delta proposal complies with the above theme of the 2020 Comprehensive Plan.

Land Use Plan: The [2020 Land Use Plan](#)⁴, a component of the 2020 Comprehensive Plan, designates this site for Town/Village Center. The 2020 Land Use Plan also designates this site as part of the [Downtown Chapel Hill Future Focus Discussion Area](#).⁵

APPLICANT PROPOSAL

The applicant proposes applying the Office/Institutional-3-Conditional (OI-3-CZ) Zoning district in order to maintain improvements to the site, which include 1,044 square feet of floor area created by enclosing a rear porch as well as the removal of on-site parking. The total size of the building is now 13,450 square feet. The Statement of Justification explains that the applicant is seeking a Conditional Zoning in order to maintain the improvements made on the site as the improvements exceed what is allowed by the Office/Institutional-1 (OI-1) zoning district.

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. A -CZ suffix would be added to the zoning district designation to incorporate the approved conditions.

The Office/Institutional-3 (OI-3) Zoning District is characterized by the following standards:

- **Intent:** Section 3.3.5 of the Land Use Management Ordinance states that the Office/Institutional-3 (OI-3) district "is intended to provide for major educational, research, public service, and office uses, and their necessary support functions, while minimizing conflicts with adjacent land uses."
- **Permitted Uses:** As established in LUMO Table 3.7-1, permitted uses include (but are not limited to) offices and research activities; limited types of businesses; single-family and multifamily residential; fraternity dwellings, and public/institutional facilities.
 - The Conditional Zoning application proposes limiting uses to fraternity or sorority dwelling.
 - The existing Office/Institutional-1 (O-1) zoning generally limits fraternity dwellings as a special use.

⁴ <http://www.townofchapelhill.org/home/showdocument?id=1215>

⁵ <https://www.townofchapelhill.org/town-hall/departments-services/chapel-hill-2020/future-focus-areas>

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 subject site is located along West Cameron Avenue, within the Town of Chapel Hill town limits. The site has visibility to a high traffic volume; is along the route for over one dozen bus routes that travel through/near campus, including the '420', 'RU', 'A', 'CW' and 'CM' routes; and is located directly north of the Carolina Inn.
- Properties immediately to the east, west, and north the site are zoned Office/Institutional-1 (OI-1) and are developed with fraternity houses.
- Property directly to the northeast of the site is zoned Town Center-2 (TC-2).
- Phi Gamma Delta sits west of the intersection of South Columbia Street and Cameron Avenue. Directly across the street, the Carolina Inn is zoned Office/Institutional-4 (OI-4). To the west of the Carolina Inn and southwest of Phi Gamma Delta, the properties containing fraternity houses are zoned Office/Institutional-2 (OI-2).
- There are various multi-family, fraternity, and institutional buildings near the intersection of South Columbia Street and Cameron Avenue.
- There appear to be no streams, stream buffers, floodplains, or wetlands affecting the site.

PROPOSED MODIFICATIONS TO REGULATIONS:

- 1) Section 3.7.3 Use Groups Modification:** The applicant proposes to limit the allowed uses on the site to a fraternity or sorority dwelling.

Staff Comment: Staff believes that Council could find a public purpose for this as the use memorializes the existing fraternity dwelling and is consistent with the neighboring properties.

- 2) Section 5.6.6 Buffer Modification:** As part of the SUP in 1997, the Town Council approved a waiver to the required 10 foot landscaped bufferyard along the west side of the property, where the existing shared driveway is located. The requirements for 10 foot interior bufferyards on the north and east sides of the property and a 15 foot exterior bufferyard along the south (front) side of the property remained.

Staff Comment: Staff believes that Council could find a public purpose for the reduced buffer width and plantings, as no change has been proposed to the existing bufferyards. Currently, there is a low stone wall (approximately eighteen inches in height) that wraps the front yard along the driveway and four-foot deep planting bed behind the wall along the Cameron Avenue sidewalk that provides an alternate bufferyard. The house is setback almost 75 feet from the front property line. A shared concrete driveway extends across the side yard to the west of the existing house, and the enclosed porch on the rear of the house is over 60 feet from the rear property line. There is an alternate buffer along the north (rear) of the lot provided by a six foot tall (6') stone wall that extends across the back of the property where the topography drops down and abuts the Sigma Nu fraternity to the north. Finally, an alternate buffer is also provided along the east (side) property line where hedges, including mature holly plants, divide the Phi Gamma Delta property from Delta Kappa Epsilon.

A fire in May 1996 destroyed much of the original building that had housed the Phi Gamma Delta fraternity. On July 7, 1997, the Town Council approved a Special Use Permit (SUP) for the reconstructed fraternity house and shed measuring 10,870 square feet in floor area. The SUP required eight to twelve parking spaces behind the house.

At that time, a modification to the required 10 foot internal bufferyard was granted along the west side of the property, as there was an existing shared driveway along the west property line.

In February 1998, the Historic District Commission (HDC) approved the reconstruction of the fraternity house. The brick shell of the building was preserved, but the roof structure, new dormers, some window and door openings, and a rear patio were modified as part of the reconstruction. Construction of the new fraternity house was completed in 1999. Any existing non-conformities remained.

Council Findings and Public Purpose: The Council has the ability to modify the regulations according to Section 4.5.6 of the Land Use Management Ordinance. Staff believes that the Council could modify the regulations if it makes a finding in this particular case that public purposes are satisfied to an equivalent or greater degree. If the Council chooses to deny a request for modifications to regulations, the developer's alternative is to revise the proposal to comply with the regulations.

For additional information on the proposed modifications, please refer to the developer's attached materials.

Dimensional Standards:

As established in LUMO Table 3.8-1, Office/Institutional-3 (OI-3) standards do not specify a maximum density (units per acre), building height, or minimum setbacks.

	Allowed in OI-3:	Proposed:
Setbacks:		
Street Setback	0 ft.	24 ft.
Interior Setback	0 ft.	8 ft.
Solar Setback	0 ft.	11 ft.
Building Height	N/A	48 ft.
Floor Area	0.566 max (13,450 SF)	0.566 (13,450 SF)

- The zoning district does include a maximum Floor Area Ratio of 0.566.
 - The Conditional Zoning application does not propose to modify the existing building, apart from increasing the allowable floor area. The building will retain a maximum core building height of 48 feet, but will permit a maximum building floor area of 13,450 sq. ft. (equates to a Floor Area Ratio of 0.566).
 - The existing Office/Institutional-1 (OI-1) zoning has a lower Floor Area Ratio (0.264, respectively), along with lower height limits. It also has an increased street and interior setbacks than the proposed district. The proposed rezoning would moderately increase the development potential for the site in terms of building scale; however, the applicant has reached the allowed FAR for OI-3 with the enclosure of the porch. The allowed and proposed FAR are 0.566.
- **Design and Development Standards:** Other standards (including landscape buffers, parking ratios, etc.) are established in LUMO Article 5 and are applicable to both zoning districts. The Conditional Zoning application provides an opportunity to establish conditions that modify use, intensity, and development standards in order to address impacts reasonably expected to be generated by development. Conditions can also address conformance of the development with town regulations and adopted plans.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

North Carolina General Statute Section 160A-383 requires the Council to approve a statement describing whether its action is consistent with an adopted comprehensive plan and any other applicable officially adopted plan when adopting or rejecting any zoning amendment.

Staff provides the following evaluation of this application's consistency with the 2020 Comprehensive Plan and other adopted plans:

- The intent of the Office/Institutional-3 (OI-3) zoning district encourages uses supporting the university, such as educational, research, public service, and office uses. It also speaks to minimizing conflicts with adjacent land uses, which is consistent with the 2020 Land Use Plan. The site is located in the Downtown Study Area, which calls for multifamily residences along Cameron Avenue.
- The site is located within the Downtown/Area 1 Future Focus Discussion Area. Chapel Hill 2020 characterizes Downtown as an area with opportunities "to preserve the historic/small-town character" of the adjacent residential areas including the Historic District. The plan also identifies traffic congestion, pedestrian and bicycle access, safety, and parking as key issues.
- The applicant states that the increased floor area provides additional space for student residents in the Phi Gamma Delta fraternity house. Further, the replacement of the parking area with green space improves a congested parking area and promotes safety on site.
- The Mobility and Connectivity Plan calls for Cross Cities Connector links along Cameron Avenue. One of the suggested improvements is a two-way cycle track from Merritt Mill Road to Pittsboro Road, directly southwest of Phi Gamma Delta.
- Finding #3 in the next section notes additional purposes of the 2020 Comprehensive Plan which may be achieved through this application.

FINDINGS OF FACT

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 (as stated in Section 4.4) 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.

Staff provides below an evaluation of this application based on the three findings. Further information may be presented for the Council's consideration as part of the public hearing process. All information submitted at the public hearing will be included in the record of the hearing.

1.) Finding #1: The proposed zoning amendment is necessary to correct a manifest error.

Arguments in Support: To date, no arguments in support have been submitted or identified by staff.

Arguments in Opposition: To date, no arguments in opposition have been submitted or identified by staff.

Staff Response: We believe, based on the information entered into the record to date, that there is no manifest error in the Town's Zoning Atlas Amendment related to the project site.

2.) Finding #2: The proposed zoning amendment is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.

Arguments in Support: To date, no arguments in support have been submitted or identified by staff.

Arguments in Opposition: To date, no arguments in opposition have been submitted or identified by staff.

Staff Response: We believe, based on the information entered into the record to date, that there has been no change or changing conditions in a particular area or in the jurisdiction generally.

3.) Finding #3: The proposed zoning amendment is necessary to achieve the purposes of the comprehensive plan.

Arguments in Support: The applicant's Statement of Consistency states that the proposed rezoning would contribute to the following elements of the Comprehensive Plan:

- Contribute to providing housing for students that is safe, sound, affordable, and accessible and meets a demonstrated need conducive to educational and maturational needs of students (*Goal Town and Gown Collaboration.4*)
- Contribute to housing for students and encourages them to reside in the community (*Goal Town and Gown Collaboration.4*)

Arguments in Opposition: To date, no arguments in opposition have been submitted or identified by staff.

Staff Response: We believe, based on the information entered into the record to date, that the Council could make the finding that the proposed zoning amendment is necessary to achieve the purposes of the Comprehensive Plan.



PROJECT FACT SHEET

Overview












Site Description	
Project Name	Phi Gamma Delta
Address	108 West Cameron Avenue
Property Size	23,763 SF (0.55 acres)
Existing	Fraternity Dwelling
Orange County Parcel Identifier Numbers	9788-36-4372
Existing Zoning	Office/Institutional-1 (OI-1)
Proposed Zoning	Office/Institutional – 3 – Conditional Zoning (OI-3-CZ)

Regulatory Land Use Intensity

Comment		Advisory Board	Status
Use/Density (Sec. 3.7)	Fraternity	PC	
Dimensional Standards (Sec. 3.8 and Sec. 6.15)	There are no required street, interior, or solar setbacks in the OI-3 Zoning District	PC	
Floor area (Sec. 3.8)	Maximum of 13,560 sq. ft.; Proposed 13,560 sq. ft.	PC	
Modification to Regulations (Sec. 3.7.3)	Only allowed use as fraternity or sorority house.	PC	M


Site Design

Proposed			Advisory Board	Status
Landscape	Buffer – North (Sec. 5.6.2)	10' Internal Type "B" required	PC	
	Buffer – East (Sec. 5.6.2)	10' Internal Type "B" required	PC	
	Buffer – South (Street) (Sec. 5.6.2)	15' External Type "B" buffer required on local streets	PC	
	Buffer - West (Sec. 5.6.2)	Reduced Modified 0' Internal Type "B" required	PC	M
	Tree Canopy (Sec. 5.7)	Tree canopy coverage standards are required for applications proposing tree removal that require council approval. No tree removal is proposed at this time.	HDC	N/A
	Landscape Standards (Sec. 5.9.6)	Not applicable	PC	N/A

Environment	Resource Conservation District (Sec. 3.6)	Not applicable	ESAB	N/A
	Erosion Control (Sec. 5.3.1)	Orange County Erosion Control permit required, if greater than 20,000 square feet of land disturbance.	ESAB	N/A
	Steep Slopes (Sec. 5.3.2)	Not applicable	ESAB	N/A
	Stormwater Management (Sec. 5.4)	No stormwater measures are required at this time.	ESAB	N/A
	Land Disturbance	4,912 sq. ft.	ESAB	
	Impervious Surface	16,634 sq. ft. (70% of gross land area)	ESAB	
	Solid Waste & Recycling	Private trash pickup; County recyclable pickup	OCSW	
	Jordan Riparian Buffer (Sec. 5.18)	Not applicable	ESAB	N/A
Access & Circulation	Road Improvements (Sec. 5.8)	Not applicable	NCDOT	
	Vehicular Access (Sec. 5.8)	There is an existing concrete driveway along the west side of the site that will remain.	TCAB	
	Pedestrian Improvements (Sec. 5.8)	Existing sidewalk along frontage	TCAB	
	Traffic Impact Analysis (Sec. 5.9)	No Traffic Impact Analysis was required.	TCAB	N/A
	Vehicular Parking (Sec. 5.9)	None proposed on-site. Minimum vehicular parking requirements do not apply for uses within the OI-3 zoning district.	TCAB, PC	
	Transit (Sec. 5.8)	Site is served by over one-dozen bus routes, including the '420', 'RU', 'A', 'CW' and 'CM' routes	TCAB	
	Bicycle Parking (Sec. 5.9)	16 existing spaces	TCAB, PC	
	Electric Vehicle Parking	None proposed	TCAB	
	Parking Lot Standards (Sec. 5.9)	No parking on site	TCAB	M
Technical	Fire	No fire flow studies or reports required at this time.	Staff	N/A
	Site Improvements	Removal of parking to expand lawn area.	HDC	
	Schools Adequate Public Facilities (Sec. 5.16)	Not applicable	Staff	N/A
	Inclusionary Zoning Ordinance (Sec. 3.10)	Not applicable	Staff	N/A
	Recreation Area (Sec. 5.5)	Not applicable	PC	N/A

	Lighting Plan (Sec. 5.11)	Not applicable.	HDC	N/A
	Homeowners Association (Sec. 4.6)	Not applicable	Staff	N/A

Project Summary Legend

Symbol	Meaning
	Meets Requirements
M	Seeking Modification
C	Requires Council Endorsement
FP	Required at Final Plan;
NA	Not Applicable