



# TOWN OF CHAPEL HILL

Town Hall  
405 Martin Luther King Jr.  
Boulevard  
Chapel Hill, NC 27514

## Legislation Details (With Text)

**File #:** [20-0575]      **Version:** 1      **Name:**

**Type:** Consent      **Status:** Passed

**File created:** 8/11/2020      **In control:** Town Council

**On agenda:** 9/9/2020      **Final action:** 9/9/2020

**Title:** Call a Public Hearing for September 30, 2020 to Consider Text Amendments that Expand Opportunities for Special Use Permit Applications to be considered under Conditional Zoning Review.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A RESOLUTION CALLING A PUBLIC HEARING TO CONSIDER LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENTS EXPANDING OPPORTUNITIES TO ALLOW SPECIAL USE PERMIT APPLICATIONS TO BE CONSIDERED UNDER CONDITIONAL ZONING REVIEW FOR SEPTEMBER 30, 2020 (2020-09-09/R-9)

Date	Ver.	Action By	Action	Result
9/9/2020	1	Town Council	adopted	Pass

### Call a Public Hearing for September 30, 2020 to Consider Text Amendments that Expand Opportunities for Special Use Permit Applications to be considered under Conditional Zoning Review.

**Staff:**

Judy Johnson, Interim Director  
Alisa Duffey Rogers, LUMO Project Manager  
Corey Liles, Principal Planner

**Department:**

Planning  
Manager’s Office  
Planning

**Overview:** Recent State legislation (Session Law 2020-3) makes it challenging for local governments to hold public hearings on Special Use Permit applications while meeting remotely. Several development applications that are seeking Council action this fall were originally submitted for Special Use Permit review. The Town Manager is proposing text amendments would allow Council to consider these applications as Conditional Zoning decisions, rather than Special Use Permits.

☆ **Recommendation(s):**

That the Council adopt the resolution calling a public hearing on September 30, 2020 at the request of the Town Manager to amend the Land Use Management Ordinance so that current Special Use Permit applications may be considered under Conditional Zoning review.

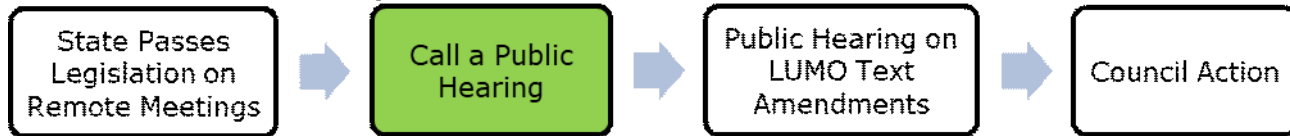
**Key Issues:**

- In response to the COVID-19 crisis, the State government created specific provisions for remote public meetings that became effective May 4, 2020 and remain in effect during the current State of Emergency.
- Under these provisions, quasi-judicial evidentiary hearings may only be held if all individuals who have standing are notified and provide consent for a remote meeting. This makes it very challenging to hold public hearings on a Special Use Permit application.
- Conditional Zoning is a review process that closely resembles Special Use Permit review. The

legislative public hearings that are necessary for Conditional Zoning review are permissible remotely and face fewer procedural challenges than quasi-judicial hearings under the new State provisions.

- The proposed amendments would also bring the affected provisions of the Land Use Management Ordinance (LUMO) into compliance with Chapter 160D, the new State enabling legislation for land use regulation.

**Where is this item in its process?**



**Attachments:**

- Resolution

**A RESOLUTION CALLING A PUBLIC HEARING TO CONSIDER LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENTS EXPANDING OPPORTUNITIES TO ALLOW SPECIAL USE PERMIT APPLICATIONS TO BE CONSIDERED UNDER CONDITIONAL ZONING REVIEW FOR SEPTEMBER 30, 2020 (2020-09-09/R-9)**

WHEREAS, on March 25, 2020, the Town Council began meeting remotely as a public safety measure during the COVID-19 crisis, and expects to continue this practice in the fall of 2020; and

WHEREAS, during this time the Town Council is continuing to review and consider action on development proposals; and

WHEREAS, on May 4, 2020, the State government enacted S.L. 2020-3 which provides new specific guidance for remote public meetings, including requirements for quasi-judicial evidentiary hearings, that remains in effect during the current State of Emergency; and

WHEREAS, the Town Attorney and the UNC School of Government have expressed reservations about holding Council public hearings on Special Use Permits, based on the provisions of S.L. 2020-3; and

WHEREAS, a number of development proposals under review at the time that S.L. 2020-3 went into effect had been submitted as Special Use Permit applications; and

WHEREAS, provisions of the Land Use Management Ordinance (LUMO) currently prevent certain development proposals from being considered as Conditional Zoning applications, which is the approval process most closely resembling Special Use Permit review and which remains a feasible process to undertake under the provisions of S.L. 2020-3; and

WHEREAS, the Town Manager is requesting minor changes to LUMO that could accommodate review of these pending development proposals as Conditional Zoning applications while still maintaining a decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan; and

WHEREAS, these minor changes to LUMO would also bring portions of the LUMO into compliance with Chapter 160D, which is the North Carolina statute modernizing the State’s enabling legislation for local development regulations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council calls a Public Hearing for September 30, 2020 at 7:00 p.m. to consider possible Land Use Management Ordinance text amendments regarding options for Conditional Zoning review and refers the proposed amendments to the Town Manager and Planning Commission for their consideration.

This the 9<sup>th</sup> day of September, 2020.

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**The Agenda will reflect the text below and/or the motion text will be used during the meeting.**

By adopting the resolution, the Council calls a public hearing on September 30, 2020 to consider text amendments that would allow Special Use Permit applications to be considered under Conditional Zoning review.