Subject: Consider Land Use Management Ordinance Text Amendments - Proposed Changes to Various Sections to Comply with Recent Changes to State Law.

Staff: Ralph Karpinos, Town Attorney
Mary Jane Nirdlinger, Executive Director
Jay Heikes, Planner
John Richardson, Planning Manager for Sustainability

Department: Attorney’s Office
Planning and Sustainability

Overview: The North Carolina General Assembly recently made changes to state law concerning land use and development that affects the enforceability of portions of the Town’s Land Use Management Ordinance (LUMO) and Council Procedure Manual. Unenforceable regulations include design review and room limitations of single- and two-family structures, and protest petitions. We propose the attached amendments to both documents to comply with new state laws. Some of the state’s land development-related legislative changes do not require amendments to the LUMO, and there are other changes for which local governments do not yet know the full range of legal implications. Staff will continue to monitor and evaluate these changes in order to bring forward any additional LUMO amendments that may be required as a result of state legislation.

Recommendations
- That the Council receive public comment, close the public hearing and consider the proposed text amendments.
- That the Council adopt the Resolution of Consistency with the Comprehensive Plan, (Resolution A) and enact Ordinance A amending the LUMO to comply with recent changes to state law.
- That the Council adopt Resolution B amending the Town Council Procedure Manual to conform to the new law and recommended Ordinance changes.

Key Issues
- The changes to state law identified in the staff report and attachments are effective now. Text Amendments to the LUMO are necessary to remove unenforceable requirements.
- No questions or comments requiring a response were raised by Council or the public at the February 15, 2015 Public Hearing.

Fiscal Impact/Resources: No fiscal impact is associated with these text amendments.

Where is this item in its process?
Council Goals:

- ☐ Create a Place for Everyone
- ☒ Develop Good Places, New Spaces
- ☐ Support Community Prosperity
- ☐ Nurture Our Community
- ☐ Facilitate Getting Around
- ☐ Grow Town and Gown Collaboration

Attachments:
- Manager’s Report
- Staff Memorandum
- Resolution Of Consistency (Resolution A)
- Ordinance A Amending the LUMO
- Resolution B Amending Council Procedure Manual
- Resolution C Denying the Text Amendments
Manager’s Report
Business Meeting – 03/21/2016

Overview: The North Carolina General Assembly recently made changes to state law concerning land use and development that affects the enforceability of portions of the Town’s Land Use Management Ordinance (LUMO) and Council Procedure Manual. Unenforceable regulations include design review and room limitations of single- and two- family structures, and protest petitions. We propose the attached amendments to both documents to comply with new state laws. Some of the state’s land development-related legislative changes do not require amendments to the LUMO, and there are other changes for which local governments do not yet know the full range of legal implications. Staff will continue to monitor and evaluate these changes in order to bring forward any additional LUMO amendments that may be required as a result of state legislation.

The Land Use Management Ordinance requires a Manager’s recommendation for Land Use Management Ordinance text amendments.

Manager’s Recommendation:

• That the Council receive public comment, close the public hearing and consider the proposed text amendments.
• That the Council adopt the Resolution of Consistency with the Comprehensive Plan, (Resolution A) and enact Ordinance A amending the LUMO to comply with recent changes to state law.
• That the Council adopt Resolution B amending the Town Council Procedures Manual to conform to the new law and recommended Ordinance changes.
Staff Memorandum
Business Meeting – 03/21/2016

Overview: The North Carolina General Assembly recently made changes to state law concerning land use and development that affects the enforceability of portions of the Town’s Land Use Management Ordinance (LUMO) and Council Procedure Manual. Unenforceable regulations include design review and room limitations of single- and two- family structures, and protest petitions. We propose the attached amendments to both documents to comply with new state laws. Some of the state’s land development-related legislative changes do not require amendments to the LUMO, and there are other changes for which local governments do not yet know the full range of legal implications. Staff will continue to monitor and evaluate these changes in order to bring forward any additional LUMO amendments that may be required as a result of state legislation.

Recommendation:

Staff Recommendation:

- That the Council receive public comment, close the public hearing and consider the proposed text amendments.
- That the Council adopt the Resolution of Consistency with the Comprehensive Plan, (Resolution A) and enact Ordinance A amending the LUMO to comply with recent changes to state law.
- That the Council adopt Resolution B amending the Town Council Procedures Manual to conform to the new law and recommended Ordinance changes.

Advisory Board/Commission Recommendations:

<table>
<thead>
<tr>
<th>Advisory Board/Commission</th>
<th>Support Staff Recommendation?</th>
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<th>Notes/Edits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Commission</td>
<td>X</td>
<td>(Resolution A)</td>
<td>5-0 The Planning Commission found the proposed text amendments to be inconsistent with the Comprehensive Plan.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Add provision to Ordinance A)</td>
<td>5-0 The Planning Commission recommended adding language to the ordinance noting that these changes are involuntary and adding a provision that would undo or roll back the changes if the laws change again.</td>
</tr>
<tr>
<td></td>
<td>√ (Ordinance A)</td>
<td></td>
<td>5-0 The Planning Commission recommended that the Council enact the text amendments in Ordinance A, with requested modification.</td>
</tr>
</tbody>
</table>
Staff Memorandum  
Business Meeting – 03/21/2016  

INTRODUCTION  
The proposed amendments to the LUMO and the Council Procedure Manual will bring them into conformity with state law by removing requirements that conflict with provisions of state laws amended during the 2015 session of the General Assembly. More specifically, these text amendments would provide clarity to applicants and community members regarding design regulation, review, and approval for single- and two-family structures by removing conflicting language from the LUMO. They would provide an exemption for signage wraps affixed to construction fencing and a clarification to the definition of dwelling unit. The amendments would also bring the LUMO and Council Procedure Manual into conformity state laws that eliminated protest petitions and clarified written comment and council voting procedures. These laws have varying effects on the Town’s regulations and plans, as described in the next section.

These text amendments do not address all state law changes concerning land use and development. Some changes do not affect the LUMO and thus do not require text amendments. The Town Attorney’s Office, with input from Town staff, as well as municipalities across North Carolina, continues to evaluate and monitor other changes made to state law where the implications for local governments are not yet clear. Should it be determined that additional text amendments are required, we will bring forward additional recommendations.

In its consideration of the text amendments, the Planning Commission acknowledged that the changes required by state law are involuntary and recommended the addition of language to that effect. In addition, the Commission recommended that Ordinance A be modified so that it could be repealed if the state law changes in the future. Staff evaluated this recommendation and do not believe that such a provision is legally enforceable or practical. Should the laws change again, staff, the public, advisory board members, or the Council could initiate a text amendment application pursuant to Article 4.4 of the Land Use Management Ordinance. The Planning Commission’s charge does not include the review of amendments to the Council Procedure Manual.

EFFECTS OF THE STATE LAW CHANGES  
The changes to state law have the following effects on the Town’s regulations, plans and procedures:

- The Town’s Neighborhood Conservation Districts (NCDs), which are designed to preserve the character and quality of older neighborhoods, had varying degrees of impact. The Mason Farm/Whitehead Circle NCD had the most impacts as it contained a bedroom-to-common space ratio that is no longer enforceable. The intent of that rule has been to limit the number of bedrooms in homes to make them less attractive as rentals with the potential for occupancy in excess of four unrelated individuals.

- The Northside and Pine Knolls NCDs also were affected by this change to state law, but both NCDs contain additional regulations that protect against over-occupancy, such as house size limits and parking limits. A rule requiring Community Design Commission review of new homes and most additions in Northside and Pine Knolls also is unenforceable; however, the rule requiring Planning Commission review of these
applications is still in effect. Although the Planning Commission cannot regulate design, it can still regulate size, massing, placement and screening of new houses and most additions. Text amendments required by the state law changes that are related to Northside and Pine Knolls NCDs were enacted with other Northside text amendments by the Town Council on February 8th. Additionally, there are minor impacts to five NCDs with design requirements for front yard fences as fence design regulations are now prohibited.

- Design guidelines, mandatory Community Design Commission Review and bedroom limits for duplexes have been rendered unenforceable by state law. Those rules have been intended to ensure that new duplexes fit into their surroundings and limit visual impacts. The maximum size limit on duplexes, which helps to limit impacts from over-occupancy, such as noise and trash, is still in effect as is the limitation on parking spaces for duplexes.

- A required change allowing signage wraps on construction fencing may have either a marginal negative or a positive visual impact in that while additional signage may be placed on fencing around construction sites, those signage wraps may help to screen the sites.

- A required change to the definition of "dwelling unit" does not impact the Town’s regulations and plans.

- Protest petitions have been eliminated, which eliminates the ability for adjoining property owners to file a petition that requires a ¾ majority vote of the Town Council on rezoning decisions. This tool previously allowed property owners, who would be the most affected by a rezoning, a greater ability to influence that decision.

- Section I.E.3 of the Council Procedure Manual, concerning protest petitions has been rendered unenforceable. It would be struck and replaced by new language from the state statute requiring that the Town Clerk forward all written comments received regarding a proposed zoning ordinance amendment to the Council. The state law further provides that in the case of zoning ordinance amendments subject to quasi-judicial proceedings, only the names and addresses of the individuals who made comments should be provided to the Council. However, the LUMO does not presently include a quasi-judicial proceeding in order to enact zoning ordinance amendments.

- Section I.E.4 of the Council Procedure Manual would be amended to clarify that silence on the part of a present, unexcused Council member does not constitute an affirmative vote on a zoning ordinance amendment. According to the current Council Procedure manual, silence on the part of a present, unexcused Council Member is recorded as an affirmative vote in most cases.

1 chplan.us/councilaction8feb2016
TEXT AMENDMENT SUMMARY

The text amendments summarized below and attached in Ordinance A are proposed for the Council’s consideration to bring the LUMO into conformity with the following changes to state law. The effective dates of these laws have passed and conflicting regulations in the LUMO have been determined by the Town Attorney to be unenforceable.

- Prohibition of design and aesthetic controls for single- and two-family development. Session Law (SL) 2015-86 (S25, H36)
- Elimination of protest petitions. SL 2015-160 (H201)
- Modification to definitions of bedroom, dwelling unit, sleeping unit. SL 2015-246 (S53, H44) section 18.b
- Allowance of signage on construction fencing. SL 2015-246 (S53, H44) section 4.b

<table>
<thead>
<tr>
<th>Proposed Change (Section of Ordinance Attachment)</th>
<th>Law</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remove references to regulations concerning building design elements from LUMO section 3.6.5 (Section 1)</td>
<td>2015-86</td>
<td>The authority to include standards regulating building design elements in a Neighborhood Conservation District (NCD) has been revoked.</td>
</tr>
<tr>
<td>Remove provisions enabling the establishment of mandatory design standards for one- and two-family structures from LUMO section 3.6.5(e) (Section 1)</td>
<td>2015-86</td>
<td>The authority to require mandatory design standards for single- and two-family structures has been revoked. NOTE: None of the established NCDs include mandatory design standards for any type of structure except the multi-family and commercial part of Glen Lennox (CD-8C). Mandatory design standards for that site are required in the Glen Lennox Development Agreement and are not affected.</td>
</tr>
<tr>
<td>Remove protest petition provision from LUMO section 4.4.2 (i) (Section 2)</td>
<td>2015-160</td>
<td>This law eliminated the protest petition requirement from state law and revoked municipal authority to allow protest petitions.</td>
</tr>
<tr>
<td>Remove requirement for CDC review of Final Plan elevations and lighting plans for one- and two-family structures approved by Special Use Permit from LUMO section 4.5.3(n)(1) (Section 3)</td>
<td>2015-86</td>
<td>The authority to regulate building design elements and require mandatory design review of elevations and lighting plans has been revoked.</td>
</tr>
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<td>------------------------------------------------</td>
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</tr>
<tr>
<td>Add exemption for signage wraps on construction fencing in LUMO section 5.14.3 (Section 4)</td>
<td>2015-246 Sec. 4(b)</td>
<td>This law granted an exemption to signage wraps on construction fencing from municipal zoning ordinances. To provide clarity, this exemption would be added to the sign ordinance.</td>
</tr>
<tr>
<td>Remove duplex standards that conflict with the prohibition on the regulation of the number and types of rooms and mandatory design review of building elevations from LUMO section 6.19 (Section 5)</td>
<td>2015-86</td>
<td>The authority to regulate “building design elements,” which includes the number and types of rooms, exterior appearance, and mandatory design review, has been revoked.</td>
</tr>
<tr>
<td>Amend definition of “dwelling unit” to match state building code in LUMO Appendix A (Section 6)</td>
<td>2015-246 Sec. 18(b)</td>
<td>This law prohibits definitions of the terms “dwelling unit,” “bedroom,” and “sleeping unit” that are more expansive than the building code or other state statutes. The LUMO definition of “bedroom” is not more expansive than the building code, and the LUMO does not contain a definition of “sleeping unit” or a comparable term.</td>
</tr>
<tr>
<td>Amend definition of “duplex” to remove bedroom regulation that conflicts with the prohibition on the regulation of the number and types of rooms in LUMO Appendix A (Section 6)</td>
<td>2015-86</td>
<td>The authority to regulate “building design elements,” which includes the number and types of rooms, has been revoked.</td>
</tr>
<tr>
<td>Amend five (5) Neighborhood Conservation District (NCD) regulating plans to remove regulation on design of fences in LUMO Appendix B, Divisions 2,3,8A,8B,9 (Sections 7,8,10-12)</td>
<td>2015-86</td>
<td>The authority to regulate “building design elements,” which includes non-structural architectural features such as fences, has been revoked.</td>
</tr>
<tr>
<td>Remove the bedroom-to-common space ratio from the Mason Farm/Whitehead Circle NCD regulating plan in LUMO Appendix B, Division 5 (Section 9)</td>
<td>2015-86</td>
<td>The authority to regulate “building design elements,” which includes the number and types of rooms, has been revoked.</td>
</tr>
</tbody>
</table>
ANALYSIS OF THE PROPOSAL

**Article 4.4 of the Land Use Management Ordinance**² (Appendix A of the Town Code) establishes the intent of Zoning Amendments (including both atlas and text amendments to the Ordinance) by stating that:

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter 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.

Article 4.4 further indicates:

It is further intended that, if amended, this chapter be amended only as reasonably necessary to the promotion of the public health, safety, or general welfare, and in conformance with the Comprehensive Plan.

Following is a staff response to the three required considerations:

A) **To correct a manifest error in the appendix:**

*Staff Comment:* We believe the information in the record thus far can be summarized as follows:

**Argument in Support:** The enactment of new state laws in 2015 have made the LUMO inconsistent with state law, creating a manifest error in the LUMO. Staff believe it is necessary to amend the LUMO to be consistent with state law and to provide clarity regarding the affected regulations to applicants, homeowners and community members regarding the portions of the new laws described below.

a) Session Law 2015-86 rendered sections of the LUMO containing regulation of building design elements on single- and two- family structures unenforceable.
b) Session Law 2015-160 eliminated protest petitions and rendered the section of the LUMO concerning protest petitions unenforceable.
c) Session Law 2015-246, section 4(b) added an exemption for signage affixed to construction fencing. Section 18(b) requires a change to the LUMO definition of dwelling unit.

**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:**

² chplan.us/LUMO4-4
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Staff Comment: No arguments in support or in opposition have been submitted to date.

C) To achieve the purposes of the Comprehensive Plan

Staff Comment: We believe the information in the record thus far can be summarized as follows:

Argument in Support: We believe that the proposed text amendment can be justified to achieve the purposes of the goals and objectives from the Comprehensive Plan.

Based on our preliminary review, we believe the Council could make the finding that the proposed text amendment complies with the Comprehensive Plan. Relevant goals and objectives in the Comprehensive Plan include, but are not limited to the following:

   Good Places, New Spaces

   • A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal GPNS.3)

Argument in Opposition: The Planning Commission did not find that the text amendments achieve the purposes of the comprehensive plan.
RESOLUTION A
(Resolution of Consistency with the Comprehensive Plan)

A RESOLUTION REGARDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE AMENDMENT TO COMPLY WITH RECENT CHANGES TO STATE LAW AND FOR CONSISTENCY WITH THE COMPREHENSIVE PLAN (2016-03-21/R-9)

WHEREAS, the Land Use Management Ordinance (LUMO) serves as a set of regulations that governs development in the Town of Chapel Hill; and

WHEREAS, the General Assembly of North Carolina has enacted new laws affecting the state laws governing zoning powers of municipalities; and

WHEREAS, the Town Attorney, with input from Town staff, has evaluated the new laws and has drafted Text Amendments to comply with them; and

WHEREAS, the Council of the Town of Chapel Hill passed a resolution at the November 23, 2015 business meeting calling a public hearing for February 15, 2016; and

WHEREAS, the Planning Commission reviewed the text amendments on January 19, 2016 and recommended enactment of the text amendments; and

WHEREAS, the Council of the Town of Chapel Hill opened a public hearing, received public comment and continued the public hearing to the March 21 Business Meeting; and

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to comply with recent changes to state law and finds that the amendment, if enacted, is reasonable and in the public’s interest and is warranted to achieve the purposes of the Comprehensive Plan, as explained by, but not limited to, the following goal of the Comprehensive Plan:

• A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal GPNS.3)

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds the proposed zoning text amendment to be reasonable and consistent with the Town Comprehensive Plan.

This the 21st day of March, 2016.
AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE TO COMPLY WITH RECENT CHANGES TO STATE STATUTE AND FOR CONSISTENCY WITH THE COMPREHENSIVE PLAN (2016-03-21/O-2)

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to comply with recent changes to state law and finds that the amendment, if enacted, is reasonable and in the public’s interest and is warranted to achieve the purposes of the Comprehensive Plan, as explained by, but not limited to, the following goal of the Comprehensive Plan:

- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal GPNS.3)

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Land Use Management Ordinance be amended as follows:

Section 1 – Article 3. Zoning Districts, Uses, and Dimensional Standards, Sec. 3.6.5 Neighborhood Conservation District is hereby amended to revise the following subsections as follows:

3.6.5 “Purpose Statement,”
- To promote and provide for economic revitalization and/or enhancement
- To protect and strengthen desirable and unique physical features, design characteristics, and recognized identity, charm and flavor
- To protect and enhance the livability of the town;
- To reduce conflict and prevent blighting caused by incompatible and insensitive development, and to promote new compatible development;
- To stabilize property values;
- To provide residents and property owners with a planning bargaining tool for future development;
- To promote and retain affordable housing;
- To encourage and strengthen civic pride; and
- To encourage the harmonious, orderly and efficient growth and redevelopment of the town.

3.6.5 (a) Designation criteria
To be designated a neighborhood conservation district, the area must meet the following criteria:

1. The area must contain a minimum of one (1) block face (all the lots on one (1) side of a block);
(2) The area must have been platted or developed at least forty (40) years prior to the date of the submittal and acceptance of a petition to initiate Phase One of the neighborhood conservation district process, or prior to a town council action to initiate Phase One of the neighborhood conservation district process;

(3) At least seventy-five (75) per cent of the land area in the proposed district is presently improved;

(4) The area must possess one (1) or more of the following distinctive features that create a cohesive identifiable setting, character or association;

   A. Scale, size, or type of construction; or distinctive building materials.
   B. Lot layouts, setbacks, street layouts, alleys or sidewalks;
   C. Special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping;
   D. Land use patterns, including mixed or unique uses or activities; or
   E. Abuts or links designated historic landmarks and/or districts.

(5) The area must be predominantly residential in use and character.

Any designated historic overlay district shall be deemed to satisfy the criteria listed above.

3.6.5 (d) Designation procedures

(1) Following initiation for designation of a neighborhood conservation district, the planning commission, or a committee designated by the town council with representation from the planning commission, shall develop a neighborhood conservation plan for the proposed district that may include

   A. Maps indicating the boundaries, age of structures and land use of the proposed district;
   B. Maps and other graphic and written materials identifying and describing the distinctive neighborhood and building characteristics of the proposed district; and

   C. Design Zoning standards for new construction, additions or alterations to the street facades of existing buildings or structures within the proposed district.

(2) All owners of properties within the proposed district shall be afforded the opportunity to participate in drafting the conservation plan. A conservation plan shall be approved as part of a zoning atlas amendment creating a neighborhood conservation district.

3.6.5 (e) Design Zoning Standard,

(1) The conservation plan approved as part of the zoning ordinance creating a neighborhood conservation district may include design zoning standards for new construction or placement of any building, structure, foundation, sign, public art or outdoor apparatus
or equipment (including visible utility boxes or mechanical equipment; trucks; lawn or
landscaping equipment, but not including lawnmowers or hand tools; playground
equipment; or sports equipment), and any additions, alterations, relocation of
rehabilitation to the street facades of existing buildings, structures, foundations, signs,
public art, or outdoor apparatus or equipment.

(2) The conservation plan, and requisite design standards shall not apply to those
activities which constitute ordinary repair and maintenance, i.e., using the same
material and design.

(3) In addition, the **design zoning** standards may include, but shall not be limited to, the
following elements governing the **physical characteristics and features** of all property
(public or private) within the proposed district:

A. Building orientation;
B. General site planning (primary, ancillary structures);
C. Density;
D. Floor area ratio;
E. Signage;
F. Architectural style and details;
G. Building materials;
H. Garage entrance location;
I. Front window, dormer size and location;
J. Landscaping; **F. Buffering and screening**
K. Fences and walls;
L. Entrance lighting;
M. Driveways and sidewalks;
N. Satellite dishes, utility boxes;
O. Street furniture;
P. Public art;
Q. Demolition (see subsection (f);
R. Roof line and pitch.

3.6.5 (f) **Administration of ordinance.**

(1) No building permit shall be issued for new construction or an **alteration or addition** to the
street facade to an existing building or structure within a designated neighborhood
conservation district without the submission and approval of **design plans a zoning**
**compliance application** and the issuance of a zoning compliance permit by the town
manager.
(2) The town manager shall review the design plans to determine compliance with the \textit{design zoning} standards contained in the neighborhood conservation plan adopted for the district.

(3) If the town manager determines that the design plans are \textit{zoning compliance application} is in conformance with the design \textit{zoning} standards adopted for the district, the town manager shall approve the plans and issue a zoning compliance permit and the department of building inspections may issue a building permit.

(4) If the town manager determines that the design plans are \textit{zoning compliance application} is not in conformance with the design \textit{zoning} standards adopted for the district, the town manager shall not approve the plans, and will issue notification of non-compliance, identifying the specific design \textit{zoning} standards violated.

(5) The applicant may appeal the town manager's determination to the board of adjustment as provided in section 4.12.

Section 2 – Article 4. Procedures, Sec. 4.4 Zoning Amendments, Subsection 4.4.2 Procedures, beginning with subdivision (i) protest petitions, is hereby amended to read as follows:

4.4.2 Procedures

(i) Protest petition.

A petition protesting a proposed amendment shall be subject to the provisions of North Carolina General Statutes Sections 160A-385 and 386, as may be amended from time to time. To qualify as a protest petition, any petition shall: (Ord. No. 2004-02-23/O-2)

(1) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment;

(2) Be received by the town clerk at least two (2) normal work days prior to the date established for the public hearing on the proposed amendment; and

(3) Be on a form prescribed and provided by the town manager and contain all the information requested on the form.

(j) (i) Effect of denial or withdrawal on subsequent applications.

When the town council shall have denied an application for amendment or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in subsection 4.4.2(e), the town manager shall not accept another application for the same or similar amendment affecting the same property or a portion thereof, until the expiration of a twelve-month period extending from the date of denial or withdrawal, as appropriate.

(k) (j) Amended applications.
If the applicant proposes any substantial changes to the application subsequent to acceptance of the application, an amended application shall be submitted and reviewed as an original application.

4.5 Actions subsequent to decision.

(1) The town manager shall cause notice of the disposition of the application to be sent to the applicant and shall cause a copy of the decision to be filed in the office of the planning department.

(2) In the case of approval, any necessary changes to the official zoning atlas shall be entered in accord with the provisions of article 3.

Section 3 – Article 4. Procedures, Sec. 4.5 Special Use Permits, Subsection 4.5.3 Procedures for Approval of Special Use Permits, Subdivision (n) issuance of development permits is hereby amended to read as follows:

(n) Issuance of development permits.

After final plan approval, the town manager may issue zoning compliance permits, engineering construction permits, building permits, sign permits, and certificates of occupancy for development approved in a special use permit, or an approved phase thereof, in the manner prescribed in section 4.9, subject to compliance with the approved final plans and following additional requirements:

(1) Prior to issuance of a building permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations and a site lighting plan shall be submitted to and approved by the community design commission. and This subdivision (n)(1) shall not apply to single-family and two-family structures approved by a Special Use Permit unless voluntarily consented to by the owners of all properties included in such an application.

(2) Prior to issuance of any zoning compliance permit for development approved in a special use permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the town manager.

Section 4 – Article 5. Design and Development Standards, Sec. 5.14 Signs, Subsection 5.14.3 Signs Exempt from Regulation, is hereby amended to add a new Subdivision (n) that reads as follows:

(n) Fence wraps displaying signage when affixed to perimeter fencing at a construction site. Such signage shall be removed at the time a Certificate of Occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was
installed, whichever is shorter. No fence wrap affixed pursuant to this exemption may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

Section 5 – Article 6. Special Regulations for Particular Uses, Sec. 6.19 Dwelling Units - Duplexes is hereby amended to read as follows:

The following standards shall apply to development of duplexes:

(a) The maximum floor area of the structure may not exceed three thousand (3,000) square feet.
(b) The maximum floor area ratio applicable shall be .40.
(c) The maximum number of bedrooms per structure shall be six (6).
(d) The community design commission shall approve duplex building elevations and site plans to determine if the elevations/site plans are in accordance with the adopted design guidelines.
(e) No more than four (4) vehicular parking spaces, as defined by landscaping and hardscape materials, shall be permitted.
(f) For special use permit, special use permit modification site plan review, and site plan review applications which authorize construction of dwelling units, two-family - duplex use, the community design commission shall approve duplex building elevations and site plans to determine if the elevations are in accordance with the adopted design guidelines, and if all property owners included in such an application voluntarily consent to such regulation.
(g) That every application for community design commission review of a duplex elevation/site plan shall include a list of owners of properties located within one hundred (100) feet of the subject property boundaries with the full name and address of each property owner, with stamped, pre-addressed mailing envelopes for each owner on the mailing list. The stamped, pre-addressed envelopes shall be used to notify the property owners of the meeting date and time during which the community design commission will consider the application.

Every application for community design commission review of duplex structure(s) that are approved by a special use permit, site plan review, or said modifications, shall include a list of owners of properties located within one thousand (1,000) feet of the subject property boundaries with the full name and address of each property owner, with stamped, pre-addressed mailing envelopes for each owner on the mailing list. The stamped, pre-addressed envelopes shall be used to notify the property owners of the meeting date and time during which the community design commission will consider the application.

Section 6 – Appendix A, Definitions is hereby amended to modify the definitions “Dwelling Unit” and “Dwelling Units, Two-Family—Duplex” read as follows:
“Dwelling Unit” A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.

“Dwelling Units, Two-Family—Duplex” A single dwelling consisting of two (2) dwelling units (other than a "two-family dwelling - including accessory apartment"), provided the two dwelling units are connected by or share a common floor-to-ceiling wall, or, if the two units are arranged vertically, that they share a common floor/ceiling and not simply by an unenclosed passageway (e.g., covered walkway) and provided that each dwelling contains no more than six (6) bedrooms per structure. Any dwelling unit that is part of a two-family dwelling shall be classified as a rooming house if occupied by more than four (4) persons who are not related by blood, adoption, marriage, or domestic partnership.

Section 7 – Appendix B, Division 2, Greenwood Neighborhood Conservation District (CD-2), Sec. 2.3. - Special design standards to apply to development in the Greenwood Conservation District, table of Greenwood Neighborhood Conservation District Plan, regulation for fences is hereby amended to read as follows:

Sec. 2.3. - Special design standards to apply to development in the Greenwood Conservation District.

<table>
<thead>
<tr>
<th>Regulation***</th>
<th>Standard for Greenwood *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fences</td>
<td>Except for the portion of lots that front on Christopher Road/Fordham Boulevard, the following standards shall apply: Fences located in the front yard ** and taller than 2.5 feet shall have openings of at least 50 per cent or more in the construction of the fence. All fences located in the front yard, with street frontage, shall have a maximum fence height of four feet except where required by law for facilities such as swimming pools.</td>
</tr>
</tbody>
</table>

*For the Greenwood Neighborhood Conservation District, these standards replace/supersede general, otherwise applicable provisions in the Land Use Management Ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this plan, provisions of the underlying zoning district for a particular parcel shall apply.

**Front yard for this fence standard shall be the street the house faces.

***Refer to section 4.12.2 of the Land Use Management Ordinance for information regarding variances from dimensional regulations and “house size” limitations.
Section 8 – Appendix B, Division 3, Kings Mill/Morgan Creek Neighborhood Conservation District (CD-3), Sec. 3.3. - Special design standards to apply to development in the Kings Mill/Morgan Creek Conservation District, table of Kings Mill/Morgan Creek Neighborhood Conservation District Plan, regulation for fences is hereby amended to read as follows:

Sec. 3.3. - Special design standards to apply to development in the Kings Mill/Morgan Creek Conservation District.

<table>
<thead>
<tr>
<th>Regulation***</th>
<th>Standard for Kings Mill/Morgan Creek *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fences</td>
<td>Fences located in the front yard** and taller than 2.5 feet shall have openings of at least 50 per cent or more in the construction of the fence. All fences located in the front yard**, with street frontage, shall have a maximum fence height of four feet except where required by law for facilities such as swimming pools.</td>
</tr>
</tbody>
</table>

*For the Kings Mill/Morgan Creek Neighborhood Conservation District, these standards replace/supersede general, otherwise applicable provisions in the Land Use Management Ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this plan, provisions of the underlying zoning district for a particular parcel shall apply.

**Front yard for this fence standard shall be the street the house faces.

***Refer to section 4.12.2 of the Land Use Management Ordinance for information regarding variances from dimensional regulations and "house size" limitations.

Section 9 – Appendix B, Division 5, Mason Farm/Whitehead Circle Neighborhood Conservation District (CD-5), Sec. 5.3. - Special design standards to apply to development in the Mason Farm/Whitehead Circle Conservation District, table of Mason Farm/Whitehead Circle Neighborhood Conservation District Plan, Regulation for Fences is hereby amended to read as follows:

Sec. 5.3. - Special design standards to apply to development in the Mason Farm/Whitehead Circle Conservation District.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Standard for Mason Farm/Whitehead Circle *</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
An application for a zoning compliance permit must be accompanied by a floor plan certified by a licensed architect, licensed appraiser, licensed engineer, licensed general contractor or licensed surveyor that certifies that the total amount of space used as bedrooms is not in excess of the total square footage of common areas in the dwelling (no more than 50% of the total square footage). A second certified drawing would verify that the floor plans submitted for the zoning compliance permit application match the construction prior to town issuance of a certificate of occupancy. Definition for common space: Any portion of a dwelling that is not a bedroom or bathroom. A zoning compliance permit would be required in the case of interior renovations of homes in the neighborhood (not just site alterations and land disturbance). [Remove Row]

* For the Mason Farm/Whitehead Circle neighborhood conservation district, these standards replace/supersede general, otherwise applicable provisions in the land use management ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this plan, provisions of the underlying zoning district for a particular parcel shall apply.

Section 10 – Appendix B, Division 8A, Glen Lennox Area Neighborhood Conservation District (CD-8A), Sec. 8A.3. - Special design standards to apply to development in the Glen Lennox Area Neighborhood Conservation District-8A, table of Glen Lennox Area Neighborhood Conservation District-8A (Oakwood Drive, Flemington Road, Hamilton Road, and Hayes Road), Regulation for Fences is hereby amended to read as follows:

Sec. 8A.3. - Special design standards to apply to development in the Glen Lennox Area Neighborhood Conservation District-8A.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Standard for CD-8A *</th>
</tr>
</thead>
</table>

Fences

No metal chain link†† fences permitted in the front yard** [Remove Row]

* For the Glen Lennox Area Neighborhood Conservation District-8A, these standards replace/supersede general, otherwise applicable provisions in the Land Use Management Ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this plan, provisions of the underlying zoning district for a particular parcel shall apply.
A chain link fence (also referred to as wire netting, chain wire, cyclone, or hurricane fencing) is defined as a woven fence usually made from galvanized or LLDPE-coated wire steel. The wires run vertically and are bent into a zig-zag pattern so that each "zig" hooks with the wire immediately on one (1) side and each "zag" with the wire immediately on the other. This forms the characteristic diamond pattern; please see Attachment 1 [section 8A.4] for an illustration of a chain link fence. Note: This regulation does not apply to the use of temporary chain link fences during construction work for Resource Conservation District control; temporary chain link fences for this purpose would be allowed under these proposed regulations.

8A.4 - Attachment:

[Delete Illustrations in 8A.4, Delete section 8A.4]

Section 11 – Appendix B, Division 8B, Glen Lennox Area Neighborhood Conservation District (CD-8B), Sec. 8B.3. - Special design standards to apply to development in the Glen Lennox Area Neighborhood Conservation District-8B, table of Glen Lennox Area Neighborhood Conservation District-8B (Rogerson Drive), regulation for fences is hereby amended to read as follows:

Sec. 8B.3. - Special design standards to apply to development in the Glen Lennox Area Neighborhood Conservation District-8B.

<table>
<thead>
<tr>
<th>Glen Lennox Area Neighborhood Conservation District-8B (Rogerson Drive)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regulation</strong></td>
</tr>
<tr>
<td>Fences</td>
</tr>
</tbody>
</table>

* For the Glen Lennox Area Neighborhood Conservation District-8B, these standards replace/supersede general, otherwise applicable provisions in the Land Use Management Ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this Plan, provisions of the underlying zoning district for a particular parcel shall apply.

††A chain link fence (also referred to as wire netting, chain wire, cyclone, or hurricane fencing) is defined as a woven fence usually made from galvanized or LLDPE-coated wire steel. The wires run vertically and are bent into a zig-zag pattern so that each "zig" hooks with the wire immediately on one (1) side and each "zag" with the wire immediately on the other. This forms the characteristic diamond pattern; please see Attachment 1 [section 8B.4] for an illustration of a chain link fence. Note: This regulation does not apply to the use of temporary chain link fences during construction work for Resource Conservation District control; temporary chain link fences for this purpose would be allowed under these proposed regulations.

8B.4 - Attachment:
Sec. 9.3. - Special design standards to apply to development in the Little Ridgefield Neighborhood Conservation District.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Standard for Little Ridgefield *</th>
</tr>
</thead>
</table>
| Fences     | Fences located in the front yard and taller than 2.5 feet shall be constructed with a minimum transparency of 50%.  
All fences located in the front yard, with street frontage, shall have a maximum height of **four feet**. An opaque fence of any height enclosing the area behind the front plane of the house (i.e., the back and side yards) is permitted. |

* For the Little Ridgefield Neighborhood Conservation District, these standards replace/supersede general, otherwise applicable provisions in the Land Use Management Ordinance where such standards applicable to the property differ. For standards that are not specifically identified in this Plan, provisions of the underlying zoning district for a particular parcel shall apply.

**Section 13.** This ordinance is effective the date enacted.

This the 21st day of March, 2016.
A RESOLUTION AMENDING SECTIONS I.E.3. AND I.E.4 OF THE TOWN OF CHAPEL HILL COUNCIL PROCEDURES MANUAL IN ORDER TO COMPLY WITH RECENT CHANGES IN STATE LAW (2016-03-21/R-10)

WHEREAS, on July 17, 2015, the General Assembly of North Carolina amended N.C.G.S. §160A-385(a)(1) and §160A-75 and repealed §160A-386 to revise the process by which municipalities receive citizen input in zoning ordinance amendments; and

WHEREAS, the repeal of N.C.G.S. § 160A-386 eliminated procedures and requirements for filing protest petitions against any change in or amendment to a zoning ordinance or zoning map; and

WHEREAS, N.C.G.S. §160A-385(a)(1) eliminated the requirement that a zoning map amendment that is the subject of a qualified protest receive a favorable vote of a supermajority of all Council Members to become effective; and

WHEREAS, N.C.G.S. §160A-385(a)(1) now requires the Town Clerk to provide Council written statements regarding a proposed amendment, modification or repeal of a zoning ordinance that have been submitted to the Town Clerk by Town residents or property owners by at least two business days prior to any vote on such changes; and

WHEREAS, N.C.G.S. §160A-385(a)(1) now further requires that if a proposed change to or repeal of a zoning ordinance is the subject of a quasi-judicial proceeding, then the Town Clerk shall provide only the names and addresses of the individuals providing written comments and that the provision of such names and addresses to all Council Members shall not disqualify any Council Member from voting; and

WHEREAS, N.C.G.S. §160A-75 now provides that a failure to vote regarding a proposed change to or repeal of a zoning ordinance under §160A-385(a)(1) by a Council Member who is present at the meeting and not otherwise lawfully excused from voting shall not be recorded as an affirmative vote; and

WHEREAS, furthermore, N.C.G.S. §160A-75 now requires a Council Member to affirmatively indicate his/her vote regarding zoning ordinance amendments, supplements, changes, modifications or repeals; and

WHEREAS, amendments to N.C.G.S. §160A-385(a)(1) and §160A-75 and repeal of N.C.G.S. §160A-386 became effective on August 1, 2015; and

WHEREAS, the Town Council Procedures Manual is a reference guide that sets out the accepted practices and policies of the Council regarding how it conducts the business of the Town. The Procedures Manual references State statutes where applicable, as well as the Town Code of Ordinances and the Land Use Management Ordinance; and

WHEREAS, the Council Procedures Manual may be amended at any time at the Council’s discretion; and
Resolution B
(Amending the Council Procedures Manual)

WHEREAS, the Town Attorney and Town staff have evaluated the new state laws and recommend the following changes to the Council Procedures Manual in order to comply with state law.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council amend section I.E.3 of the Town Council Procedures Manual to conform with state law.

3. **Protest.** In matters involving amendments to the Zoning Ordinance having to do with zoning regulations applicable to particular areas, State law provides that a protest petition may be filed. If such a petition is timely filed and correctly executed, this will be called to the attention of the Council at the time of final voting. In the event such a valid petition is filed, the rezoning ordinance cannot be enacted except by three-fourths vote of the Council.

3. **Citizen Comments.** In matters involving amendments to the Zoning Ordinance, state law provides that if any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Clerk at least two business days prior to the proposed vote on such change, the Clerk must provide Council with the written statement. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, the Clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all Council Members shall not disqualify any Council Member from voting.

BE IT FURTHER RESOLVED by the Council of the Town of Chapel Hill that the Council amend section I.E.4 of the Town Council Procedures Manual to conform with state law.

4. **Abstention.**

   a. By state statute, no member of the governing body may be excused from voting on any matter before the Council except in matters involving the consideration of his or her own financial interest or official conduct.

   b. In most other cases, the failure to vote by a member who is physically present or has withdrawn without being excused (preferably by a majority vote of the remaining members present) shall be recorded as an affirmative vote. This rule does not apply to zoning ordinance amendments. For example, if a Council Member is physically present in the chamber the Council Member is required to vote on a zoning ordinance amendment, but silence in response to a call for a voice vote cannot be accepted as an affirmative vote. If a Council Member has exited the Chamber without being excused from the meeting, the Council should delay calling for the vote on the zoning ordinance matter until the Council Member returns to Council Chambers and can take part in the vote.

   c. The rule against abstaining from voting does not apply where the matter being voted upon is not a motion but rather offers the Council more affirmative choices than just approval or disapproval of a specific ordinance or resolution. For example, if the Council is voting on appointments to an advisory board a Council member may elect to turn in a signed, unmarked ballot, or vote for a number of candidates less than the number of vacant seats.
d. Certain other circumstances may make abstention from voting appropriate in cases involving quasi-judicial proceedings. These are reviewed during Council orientation by the Town Attorney.

This the 21st day of March, 2016.
RESOLUTION C

( Denying the Land Use Management Ordinance Text Amendment proposal)

A RESOLUTION DENYING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE AMENDMENT TO COMPLY WITH RECENT CHANGES TO STATE LAW AND FOR CONSISTENCY WITH THE COMPREHENSIVE PLAN (2016-03-21/R-11)

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to comply with recent changes to state law and fails to find that the amendment:

   a) corrects a manifest error in the chapter; or
   b) is justified because of changed or changing conditions in the area of the rezoning site or the community in general; or
   c) achieves the purposes of the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the Town-initiated proposal to amend the Land Use Management Ordinance to comply with recent changes to state law.

This the 21st day of March, 2016.