

## **MEMORANDUM**

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director  
Gene Poveromo, Development Manager  
Kendal Brown, Principal Planner

SUBJECT: Land Use Management Ordinance Text Amendment – Adjustment to the Special Use Permit Threshold for Downtown Development in the Town Center Zoning Districts

DATE: June 8, 2009

### **INTRODUCTION**

Tonight the Town Council continues the public hearing from May 11, 2009. Enactment of the attached ordinance would enact a proposed Land Use Management Ordinance text amendment regarding an exemption for particular kinds of redevelopment of buildings in the Town Center zoning districts relative to the floor area threshold for Special Use Permit review.

### **BACKGROUND**

On January 6, 2009, the Planning Board petitioned the Council to modify the Land Use Management Ordinance (LUMO) regulations to lower the overall threshold for Special Use Permit review. (Please refer to the Planning Board petition, Attachment 2). Several citizens expressed support for the petition overall. Others expressed concerns about the effect on downtown revitalization efforts. The item was referred to the Planning Board for study and recommendation. The Planning Board formed a committee and has begun this work.

On March 23, 2009, the Planning Board petitioned the Council to enact an exemption from the Special Use Permit threshold for renovation of an existing downtown building which does not involve increasing the building footprint or significantly altering the building exterior. The exemption was recommended regardless of the pending outcome of the Planning Board's Special Use Permit threshold study. The Council referred the March petition to the staff for analysis and recommendation.

A public hearing was held on May 11, 2009 during which the Planning Board chair presented the Planning Board's rationale for the petition. The Council requested clarification on wording regarding height limits. No citizens spoke on this item.

### **DISCUSSION**

At the May 11, 2009 public hearing, Council members raised a concern to which we have responded below.

1. **Building Height Increases**: A Council member noted that the language for the proposed exemption did not address potential proposals to increase building height. It was suggested that any building height increases should undergo Special Use Permit review, and thus should not be included in the proposed exemption.

*Staff Response:* In response to the Council member's concern, we offer an adjustment to the language in the proposed footnote to clarify that the exemption would not apply to proposed building height increases. New wording is underlined:

The floor area threshold of 20,000 square feet for Special Use does not apply to increasing the floor area in existing buildings in the Town Center-1, -2, and -3 zoning districts, so long as the redevelopment does not increase the building footprint or height (excluding HVAC equipment and screening thereof) and does not significantly alter the building's exterior.

### **CURRENT LAND USE MANAGEMENT ORDINANCE**

In Article 3 of the Land Use Management Ordinance, Table 3.7.1, the "Use Matrix", establishes regulations governing the use of land and structures within the various zoning districts and classifications of planned developments. Entries within the matrix indicate whether a particular use is permitted as a principal use, accessory use, special use, or is not permitted. Following the matrix are three footnotes, the first of which states that those uses otherwise permitted as a principal use are only allowed as a special use if the scale of the development is over 20,000 square feet of floor area and/or 40,000 square feet of land disturbance.

Schools, the University main campus (OI-3, OI-4), and Materials Handling (MH) zoning districts are currently exempted from this threshold provision.

### **PROPOSED TEXT AMENDMENT**

Below is the proposed text amendment, identified by text underlining:

*In Article 3, the first footnote under Table 3.7.1, the "Use Matrix" of the Land Use Management Ordinance:*

In all zones except OI-3, OI-4 and MH: For all use except existing public elementary and secondary schools. Permitted as a PRINCIPAL USE if floor area of proposed development is less than 20,000 square feet, and area of disturbed land is less than 40,000 square feet; otherwise permitted as a special use. The floor area threshold of 20,000 square feet for Special Use does not apply to increasing the floor area in existing buildings in the Town Center-1 , -2 , and -3 zoning districts, so long as the redevelopment does not increase the building footprint or height (excluding HVAC equipment and screening thereof) and does not significantly alter the building's exterior. For existing PUBLIC elementary and secondary schools, "P" indicates permitted as a principal use.

### **ZONING AMENDMENT**

Article 4.4 of the Land Use Management Ordinance 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.

**A) An amendment to the Land Use Management Ordinance (text amendment) is necessary to correct a manifest error in the chapter.**

*Staff Comment:* We believe the information in the record to date can be summarized as follows:

- Argument in Support: We are unable to identify any arguments in support of a manifest error.
- Argument in Opposition: To date no arguments in opposition have been submitted.

**B) An amendment to the Land Use Management Ordinance (text amendment) is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.**

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

- Argument in Support: We are unable to identify any arguments in support of changed conditions.
- Argument in Opposition: To date no arguments in opposition have been submitted.

**C) An amendment to the Land Use Management Ordinance (text amendment) is justified 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 the justification of the text amendment application is to achieve the purposes of the following major themes of the Comprehensive Plan as it relates to:
  - **Implementing the Downtown Small Area Plan;**
  - **Economy and Employment; and**
  - **Improving the Development Review Process.**

Each theme, and its corresponding strategies and actions, are briefly discussed below.

### **Implementing the Downtown Small Area Plan**

The Downtown Small Area Plan includes the following objectives and strategies:

1. Develop an expedited regulatory review process for downtown development projects; and
2. Pursue opportunities for redevelopment and preservation.

*Staff Comment:* The proposed amendment would help align the Ordinance with the stated goals for simplifying the review process for minor downtown redevelopment projects in existing buildings.

### **Economy and Employment**

The Downtown Small Area Plan includes the following objectives and strategies:

1. Facilitate development on designated opportunity sites;
2. Maintain a policy/regulatory climate that is supportive of small businesses and of considering provisions to facilitate small business development; and
3. Acknowledge that accommodation of business expansion needs is constrained by the amount of suitable land available and stay apprised of the needs of local businesses and assist in meeting those needs where possible.

*Staff Comment:* The proposed amendment would help support minor expansion of businesses in the existing downtown buildings.

### **Improving the Development Review Process**

The Downtown Small Area Plan includes the following objectives and strategies:

1. “In the downtown area...requirements should be customized to encourage the development and redevelopment of property consistent with the Downtown Small Area Plan;” and
2. Expedite “the processing of projects of limited scope and impact ... as a tool to support small businesses.”

*Staff Comment:* The proposed amendment would help expedite the minor expansion of businesses in the existing downtown buildings.

- Argument in Opposition: To date, no arguments in opposition have been submitted.

## RECOMMENDATIONS

Planning Board Recommendation: The Planning Board met on April 21, 2009 and voted 7-0 to recommend that the Council enact the attached Ordinance. Please see the attached Summary of Planning Board Action.

Staff Recommendation: We recommend that the Council enact the attached Ordinance to amend the footnote following Table 3.7-1, the Use Matrix in the Land Use Management Ordinance, to provide an exception for certain kinds of redevelopment in the Town Center zoning districts.

## ATTACHMENTS

1. Summary of Planning Board Action (p. 7)  
[http://townhall.townofchapelhill.org/agendas/2009/05/11/1/1-3-pb\\_petition\\_to\\_tc\\_20090317.pdf](http://townhall.townofchapelhill.org/agendas/2009/05/11/1/1-3-pb_petition_to_tc_20090317.pdf)
2. March 23, 2009 Planning Board petition (p. 8)  
[http://townhall.townofchapelhill.org/agendas/2009/05/11/1/1-3-pb\\_petition\\_to\\_tc\\_20090317.pdf](http://townhall.townofchapelhill.org/agendas/2009/05/11/1/1-3-pb_petition_to_tc_20090317.pdf)