

MEMORANDUM

TO: Mayor and Town Council

FROM: Roger L. Stancil, Town Manager

SUBJECT: Public Hearings Carolina North Development Proposal:

- Land Use Management Ordinance Text Amendment creating the University-1 (U-1) Zoning District
- Zoning Atlas Amendment to rezone a portion of the Horace Williams Tract to the University-1 (U-1) zoning district
- Carolina North Development Agreement

DATE: June 15, 2009

PURPOSE

Tonight is a continuation of the May 11, 2009 Public Hearings associated with the Carolina North Development. We recommend that the Town Council continue the Public Hearings, receive comments and consider the attached ordinances.

BACKGROUND

During the past several months, the Town and the University have been engaged in the preparation of a new zoning district and a Development Agreement for the initial phase of Carolina North. A complete list of meetings associated with this process, can be viewed at the following web page link: <http://www.townofchapelhill.org/index.asp?NID=1915>

As part of the Carolina North submittal, three proposals are before the Town Council for consideration:

1. Land Use Management Ordinance Text Amendment Adoption of the proposed text amendment would create a new zoning district: University-1 (U-1). Town and University staffs working together have developed the proposed text amendment creating the new zoning district.
http://townhall.townofchapelhill.org/agendas/2009/06/08/11/attach_1-lumo_text_amendment_6-5-09.pdf
2. Zoning Atlas Amendment Application The Zoning Atlas Amendment application proposes to rezone approximately 643 acres of the Horace Williams Tract from Office/Institutional-2 (OI-2) and Residential-2 (R-2) to the proposed University-1 (U-1) zoning district. The applicant for the proposed rezoning is The University of North Carolina at Chapel Hill. A copy of the Zoning Atlas Amendment application can be viewed at the following link:

http://townhall.townofchapelhill.org/agendas/2009/05/11/2/2-2_full_application_for_rezoning_20090501.pdf

3. Carolina North Development Agreement Application (April 28, 2009). The Development Agreement application proposes that the Town of Chapel Hill and The University of North Carolina at Chapel Hill enter into a Development Agreement for development of the Horace Williams Tract. The applicant for the proposed Development Agreement is The University of North Carolina at Chapel Hill. This application is consistent with the Town Council agreement that a new zone and development agreement is the preferred process for guiding development at Carolina North.

REZONING AND DEVELOPMENT AGREEMENTS

The Council has discretionary authority to approve or deny a rezoning request. With a rezoning application to the proposed University-1 (U-1) rezoning request, the proposal in the accompanying Development Agreement is related to the rezoning request. We believe it is appropriate for the Council to consider the Development Agreement in tandem with a rezoning hearing.

PROTEST PETITION

Opportunity for a protest petition to a proposed amendment to the Zoning Atlas is provided for under North Carolina Statutes. If a sufficient protest petition is filed with the Town Clerk at least 2 business days prior to the date of the public hearing (June 15, 2009), the proposed rezoning shall not become effective except by favorable vote of not less than three-fourths of the Town Council. The deadline (June 10) passed without the Town receiving a formal protest petition.

ADDITIONAL INFORMATION

Subsequent to the June 8, 2009 Council Work Session on Carolina North, the following documents and information has been gathered by staff:

1. Revised Development Agreement: In response to discussion and comments received during the June 8 Council Work Session, Town and University staff have revised portions of the Development Agreement. A copy of the revised Development Agreement is attached.
2. Staff Report on Mode Share Sensitivity Analysis. During the June 8 Council Work Session, a Council member asked that the staff provide additional information on the constrained parking space ratios. A report by staff on this subject is attached.
3. Staff Report on the Carolina North Design Guidelines. During the June 8, 2009 Council Work Session, several Council members asked that staff provide a report on the October 30, 2008 Draft Carolina North Design Guidelines. A report by staff on this subject is attached.

4. Response to Council questions during the May 11, 2009 Public Hearing. During the May 11, 2009 Public Hearing the Council had several questions concerning transit and traffic. A copy of those questions and staff response is attached to this memorandum.
5. Carolina North Ecological Assessment Report (paper copy). This report was submitted by the University on October 31, 2008. Electronic copies of this document were provided to the Council as part of Council agenda items distributed on November 18, 2008 and May 11, 2009. Attached to this memorandum is a hard copy of this document. http://townhall.townofchapelhill.org/agendas/2009/05/11/2/2-3e_carolina_north_ecological_report_200710.pdf

DISCUSSION

1. Land Use Management Ordinance Text Amendment creating the University-1 (U-1) Zoning District

Text Amendment Analysis: 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.”

Each of these requirements, with respect to this proposed rezoning application, is discussed below:

A) A text amendment to the Land Use Management Ordinance 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 were unable to identify any arguments in support of a manifest error.
- Argument in Opposition: To date no arguments in opposition have been submitted.

B) A text amendment to the Land Use Management Ordinance 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 were unable to identify any arguments in support of changed conditions.
- Arguments in Opposition: To date, no arguments in opposition have been submitted.

C) An amendment to the Land Use Management Ordinance is necessary 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:
 - **Conserve and protect existing neighborhoods;**
 - **Conserve and protect the natural setting of Chapel Hill;**
 - **Cooperatively plan with the University of North Carolina;**
 - **Provide quality community facilities and services; and**
 - **Develop strategies to address fiscal issues.**

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

Conserve and protect existing neighborhoods

The Comprehensive Plan states the following statement: "...that some residential neighborhoods will face pressure for infill development and redevelopment...especially for neighborhoods immediately surrounding...the main Campus of the University of North Carolina at Chapel Hill."

Staff Comment: The stated objective of the U-1 district is to allow for "orderly and sustainable growth and major new development while mitigating impacts to nearby neighborhoods, the community, and the environment." The U-1 zoning district requires a negotiated Development Agreement identifying a mix of interrelated uses, standards for the provision of housing, standards for noise and lighting design, and pedestrian, bikeway, greenway, transit and parking facilities. The plan must also be accompanied by reasonable measures to mitigate transportation impacts.

Conserve and protect the natural setting of Chapel Hill

The Comprehensive Plan states the following statement: “The Town’s beautiful natural environment...is a key component of the community character. While some of these areas are identified and protected, others need to be inventoried and guidelines established for their conservation.”

Staff Comment: The U-1 zoning district requires the applicant to provide an ecological assessment of the entire area and a description of reservation or dedication of land provisions protecting environmentally sensitive property. The negotiated development agreement requires that development minimize impacts on natural site features and be accompanied by reasonable measures to mitigate those impacts. The district also identifies permitted uses for lands in the district but not subject to a development agreement proposal.

Cooperatively plan with the University of North Carolina

The Comprehensive Plan includes the following statement: “The fulfillment of the mission of UNC and the UNC Health Care System will be accompanied by growth of those institutions. Good communication and cooperative planning are critical to assuring that this growth can be absorbed by and integrated into the surrounding community.”

Staff Comment: The stated objective of the U-1 district is to allow for “orderly and sustainable growth and major new development while mitigating impacts to nearby neighborhoods, the community, and the environment.” The approved development agreement will provide development rights and predictability for the projects identified by the University in the development agreement.

Provide quality community facilities and services

The Comprehensive Plan includes the following statement: “With the continued growth of Chapel Hill and UNC, parts of the Town are developing a more urban character and form. This growth creates the need to develop or upgrade community facilities and services in order to provide the level of quality that citizens expect.”

Staff Comment: The U-1 district requires that a long range plan and a development schedule be provided along with a description of public facilities that will service the development, including who provides the facilities, the date of construction and a schedule of triggering points for facilities.

Develop strategies to address fiscal issues

The Comprehensive Plan includes the following statement: “.....with a desire to maintain and improve fiscal health of the community, suggests the need to develop specific strategies to allow us to identify how we will pay for what we want.”

Staff Comment: The U-1 district requires the development agreement to include a description of public facilities and who pays for them and states that “proposed development shall be accompanied by reasonable measures to mitigate any adverse fiscal impacts for the town.”

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

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.

TEXT AMENDMENT RECOMMENDATIONS

Planning Board Recommendation: On June 2, 2009, the Planning Board voted 7-0 to recommend that the Council enact the proposed ordinance creating the proposed University-1 (U-1) zoning district. A copy of the Planning Board Summary is attached to this memorandum.

Staff Recommendation: We recommend approval of the proposed Land Use Management text amendment creating the University-1 zoning district. We believe the text amendment can be justified based on Finding C, as described above, associated with below goals and objectives of the Comprehensive Plan:

- Conserve and protect existing neighborhoods;
- Conserve and protect the natural setting of Chapel Hill;
- Cooperatively plan with the University of North Carolina;
- Provide quality community facilities and services; and
- Develop strategies to address fiscal issues

Attached for Council consideration is a draft Ordinance amending the Chapel Hill Land Use Management Ordinance regarding the establishment of a new University-1 (U-1) zoning district.

2. Zoning Atlas Amendment application to rezone a portion of the Horace Williams Tract to the University-1 (U-1) zoning district

Zoning Atlas Amendment Analysis: 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.”

Each of these requirements, with respect to this proposed rezoning application, is discussed below:

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

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

- Argument in Support: The applicant has not offered arguments to support this circumstance. We were 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 (rezoning) 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: The applicant has not offered arguments to support this circumstance. We were unable to identify any arguments in support of a manifest error.
- Arguments in Opposition: To date, no arguments in opposition have been submitted.

C) An amendment to the Land Use Management Ordinance is necessary to achieve the purposes of the Comprehensive Plan.

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

- Arguments in Support: Arguments in support of this finding are offered in the applicant’s statement of justification, which references several themes in the Comprehensive Plan:
 - “The Comprehensive Plan expressly identifies the University’s Horace Williams tract as a “development opportunity area (see section 8A-1).” *[Applicant’s Statement]*
 - “Promoting additional mixed-use developments in Chapel Hill is a key Comprehensive Plan strategy (see section 8A-2).” *[Applicant’s Statement]*
 - “As an economic development strategy, the Comprehensive Plan encourages the Town and the University to facilitate entrepreneurial opportunities associated with research and development, and specifically mentions the Horace Williams tract as a logical candidate for housing “research-oriented facilities and incubator facilities for technology transfer (see section 6C-1).” *[Applicant’s Statement]*

- “A major objective described in the Comprehensive Plan is increasing the availability of quality housing that is affordable to citizens who live and work in Chapel Hill. One of the strategies offered is the construction of housing on the Horace Williams tract that is targeted to University employees (see section 4B-2).” *[Applicant’s Statement]*
- “The Comprehensive Plan includes a map setting forth the desired future pattern of land use in Chapel Hill, including possible site for the construction of public K-12 schools identified by the Chapel Hill-Carrboro School Board. Land within the University’s Horace Williams tract is included among the possible school sites identified by the School Board (see section 8.2 and figure 11).” *[Applicant’s Statement]*
- “The Comprehensive Plan encourages the preservation of open space through the use of conservation development principles, which emphasize high density development on a portion of the property and setting aside a substantial portion of the remaining land for permanent conservation (see section 8A-3).” *[Applicant’s Statement]*

A copy of the applicant’s April 29, 2009 rezoning Statement of Justification is attached.

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.

ZONING ATLAS AMENDMENT RECOMMENDATIONS

Planning Board Recommendation: On June 2, 2009, the Planning Board voted 7-0 to recommend that the Council rezone 643 acres of the Horace Williams Tract, from Residential-2 (R-2) and Office/Institutional-2 (OI-2), to the proposed University-1 (U-1) zoning district. A copy of the Planning Board Summary is attached to this memorandum.

Staff Recommendation: We recommend approval of the application to rezone 643 acres of the Horace Williams Tract, from Residential-2 (R-2) and Office/Institutional-2 (OI-2), to the proposed University-1 (U-1) zoning district. We believe the rezoning could be justified based on Finding C, as described above, associated with goals and objectives of the Comprehensive Plan.

Attached for Council consideration is an Ordinance to rezone the Horace Williams Tract and amend the Chapel Hill Zoning Atlas for the Carolina North Development.

3. Carolina North Development Agreement Application

Proposed Development Agreement: The Carolina North Development Agreement application proposes that the Town of Chapel Hill and The University of North Carolina at Chapel Hill enter into a Development Agreement for the Chapel Hill portion of the Horace Williams Tract.

Development Agreements are contracts negotiated between project proponents and public agencies that govern the land uses that may be allowed in a particular project. While a Development Agreement must advance the agencies' local planning policies, it may also contain provisions that vary from otherwise applicable zoning standards and land use requirements.

A Development Agreement is essentially a planning tool that allows public agencies greater latitude to advance local planning policies, sometimes in new and creative ways. We view a Development Agreement as an opportunity that would allow the Town and University to enter into a long-term agreement that stipulates levels of development, timing of development, performance standards and the implementation of public improvements/facilities. We believe this approach offers greater flexibility, creativity and assurance than the current options available in the existing Land Use Management Ordinance.

During the past year, the Town Council and University Board of Trustees have been negotiating the terms of a Development Agreement.

During the May 11, 2009 Public Hearing the Council had several questions concerning transit and traffic. A copy of those questions and staff response is attached to this memorandum.

Advisory Board Recommendations/Comments: Subsequent to the May 21, 2009 Council/Board of Trustees Joint Work Session, we received comments from the following Town's Advisory Boards: Bicycle and Pedestrian Advisory Board (May 19, 2009), Community Design Commission (May 20, 2009), Stormwater Management Utility Advisory Board (May 28, 2009), and Transportation Board (June 2, 2009). Copies of these Advisory Board comments have been provided to the Council and are attached to this memorandum. A complete to date (June 3, 2009) list of the Town's Advisory Boards comments (including the four boards listed above), with cross-reference to the Development Agreement is available at the following link:
<http://www.townofchapelhill.org/DocumentView.aspx?DID=2650>

DEVELOPMENT AGREEMENT RECOMMENDATIONS

Planning Board Recommendation: On June 9, 2009 the Planning Board recommended that the Council amend some sections of the proposed Development Agreement. A copy of the proposed amendments to the Development Agreement is attached to this memorandum.

Staff Recommendation: Tonight we recommend that the Council continue their

discussion of the proposed Development Agreement, hold a joint work session on June 16 with the University Board of Trustees, and consider adoption of the Development Agreement on June 22.

RECOMMENDATION

The purpose of this cover memorandum is to forward the three proposed ordinances associated with the Carolina North Development:

- An ordinance (text amendment) amending the Land Use Management Ordinance creating the University-1 (U-1) Zoning District;
- An ordinance (zoning atlas amendment) to rezone a portion of the Horace Williams Tract to the University-1 (U-1) zoning district; and
- An ordinance approving a Development Agreement for Carolina North.

We recommend that the Council receive and consider further public comment at the Public Hearings this evening and resume its consideration of these matters tomorrow evening, June 16, when it is scheduled to meet with representatives of the University Board of Trustees. On June 22, the Council is scheduled to take action on the proposed LUMO text amendment, rezoning and development agreement.

ATTACHMENTS

1. Revised Development Agreement.
 - a. Clean copy.
 - b. Copy with edits.
2. Staff report on Mode Share Sensitivity Analysis.
3. Staff report on November 2008 Carolina North Design Guidelines.
4. Staff response to Council's May 11, 2009 questions on transit and traffic.
5. Carolina North Ecological Assessment Report (October 2007).
6. Planning Board Recommendations on: a) Text Amendment; b) Rezoning; and c) Development Agreement.
7. Applicant's rezoning Statement of Justification.
8. Additional Advisory Board Recommendations.