

MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director
Gene Poveromo, Development Manager
Phil Mason, Principal Planner

SUBJECT: Land Use Management Ordinance Text Amendments – Medical Office, Office-Type Business, and Clinic Definitions

DATE: March 8, 2010

INTRODUCTION

Tonight the Town Council continues the public hearing from [January 20, 2010](#). Approval of the ordinance at the end of this memorandum would enact the proposed Land Use Management Ordinance (LUMO) text amendments that would adjust two land use definitions in the LUMO: office-type business, and clinic.

BACKGROUND

On [October 12, 2009](#) the Council received a memorandum from the Town Manager that recommended consideration of a text amendment to respond to an increased real estate demand for medical office floor area. In response, the Council directed the staff to initiate a Land Use Management Ordinance text amendment to add medical office as a land use category in the ordinance.

DISCUSSION

A public hearing was held on January 20, 2009. No issues were raised by Council Members or residents.

CURRENT LAND USE MANAGEMENT ORDINANCE

Appendix A of the Land Use Management Ordinance (LUMO) defines Office-type Business, and Clinic as indicated below:

“Business, Office-type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including offices of charitable, philanthropic, religious, or educational nature.”

“Clinic: An establishment used for the care, diagnosis, therapy, or counseling of sick, ailing, infirm, or injured persons or non-medical therapy and counseling on an out-patient basis.”

The definition of “business, office-type” does not reference medical office or clinic uses.

PROPOSED LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT

The proposed text amendments would introduce a new term, “medical office” while amending two definitions, “business, office-type,” and “clinic,” in Appendix A of the Land Use Management Ordinance (LUMO), as follows:

“Medical Office: Facilities that provide diagnoses and outpatient care on a routine basis but are unable to provide prolonged in-house medical and surgical care and occupy 10,000 square feet of floor area, or less, per building.”

“Business, Office-type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, **design, communications, medical office, writing, clerical, stenographic, and drafting occupations,** and including institutional offices of a charitable, philanthropic, religious, or educational nature.”

“Clinic: An establishment used for the care, diagnosis, therapy, or counseling of sick, ailing, infirm, or injured persons or non-medical therapy and counseling on an out-patient basis, **as distinct from a medical office, as defined in Appendix A of the Land Use Management Ordinance.**”

We also recommend updating the terminology for office-type business to more broadly represent “writing, clerical, stenographic, and drafting occupations,” as noted above.

ZONING AMENDMENTS

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 believe that a manifest error in the Land Use Management Ordinance unnecessarily constrained the variety of medical office uses by not distinguishing these types of uses.

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 that the proposed text amendments can be justified to achieve the purposes of the following goals and objectives from the Comprehensive Plan and Town Economic Development Strategy:

- Encourage desirable forms of non-residential development: Maintaining a mix of private, non-residential uses (e.g., office, retail, and service establishments) is important to the future health and economic vitality of the community. In addition to augmenting the tax base, appropriate forms of non-residential development can help achieve such objectives as making it easier for people to live and work in Chapel Hill, increasing local shopping opportunities, and supporting mixed-use development forms.
- Economic Diversity: Promote diversification of the Town's economy and employment opportunities for residents, consistent with supporting a high quality of life.
- Develop and maintain commercial uses that are compatible with the character and scale of Chapel Hill.
- Grow the non-residential tax base consistent with the principles of the Town's Comprehensive Plan.
 - a) Analyze the retail market to identify opportunities and capacity
 - b) Involve stakeholders in identifying locations and objectives for non-residential development
 - c) Continue to seek new opportunities for downtown redevelopment

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

RECOMMENDATIONS

Planning Board Recommendation: The Board voted 6-0 on December 15, 2009 to recommend enactment of the Land Use Management Ordinance text amendment with the following suggested revision (underlined in bold type):

“Clinic: An establishment used for the care, diagnosis, therapy, or counseling of sick, ailing, infirm, or injured persons or non-medical therapy and counseling on an out-patient basis, **not including as distinct from a medical office, as defined in Appendix A of the Land Use Management Ordinance.**”

Please refer to the Planning Board Summary of Action, attached to the [January 20, 2010](#) public hearing memorandum.

Comment: We concur with the Planning Board’s recommendation and have included it in our preliminary recommended Draft Ordinance. We have made further amendments, as indicated below, to remove a recommended reference to the ITE manual. We recommend addressing traffic concerns with a reference to the allowable size of the business.

“Medical Office: Facilities that provide diagnoses and outpatient care on a routine basis but are unable to provide prolonged in-house medical and surgical care and occupy 10,000 square feet of floor area, or less, per building.”

“Business, Office-type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, **design, communications, medical office, writing, clerical, stenographic, and drafting occupations,** and including institutional offices of a charitable, philanthropic, religious, or educational nature.”

Staff Recommendation: We recommend that the Council enact the attached Ordinance to 1) amend the Land Use Management Ordinance to include a new definition, “medical office,” 2) amend the definition of “business, office-type,” and 3) amend the definition of “clinic” in Appendix A of the Land Use Management Ordinance.