

Citizen/Board/Council Comments at 6/18/01 Public Hearings on  
Draft OI-4 Zone

*Compiled by Chapel Hill Planning Department  
July 2, 2001*

1. Please clarify the “net” issue raised by Planning Board regarding exempting new housing from floor area calculations. Consider making this change to avoid incentives for demolition of Odom Village.

Staff Response: We understand that the objective behind this Planning Board recommendation is to not create a situation in which the University would be able to gain an additional allowance of floor area by the demolition of Odom Village, an incentive theoretically created by not counting as floor area new replacement housing, thereby allowing the University to replace the existing Odom Village floor area with non-residential floor area. We do not believe that such an incentive would be created. A key feature in the proposed concept of a Development Plan is that the University would state what facilities it wants/needs to construct. If the Council approves, those facilities are authorized. Because there is no pre-ordained floor area maximum, there is no need for any “trading” of floor area to achieve a desired result. If a Council-approved Development Plan shows a new facility and its floor area, the facility can be constructed.

2. Please correct the statement that overlay zones, like Historic Districts, do not apply to the University.

Staff Response: We stated in our June 18 memorandum that overlay districts, such as Chapel Hill’s Historic District, do not apply to State-owned properties. The chair of our Historic District Commission appeared at the hearing and asked for clarification of that point. We have revisited the question, and concluded that our statement was in error. While overlay zoning districts in general cannot be applied to State-owned property, there is special statutory language that indicates that Historic District regulations can be applied. We have made an adjustment in the accompanying memorandum, discussing the proposed OI-4 zoning district, clarifying this point.

3. Section 16.1 of OI-4 should be adjusted as recommended by the Planning Board.

Staff Response: The recommendation is to add language to Section 16.1, “Purpose and Intent,” to indicate that one of the purposes is to protect the larger community and nearby neighborhoods. Specifically, change the second paragraph of Section 16.1 to read as follows (additions in italics): “The objective of this Article and the OI-4 district is to allow for growth and development while protecting the *larger* community, *nearby neighborhoods*, and environment from impacts accompanying major new development.

A key feature of this district is the preparation of a Development Plan that would allow the property owner, *immediate neighbors*, and the *larger* community to understand specifically what levels of development are being proposed, and what impacts would likely accompany the development, so that mitigation measures can be designed and implemented.” We believe that the proposed change is reasonable, and have incorporated this change in the version of the ordinance being presented tonight.

4. OI-4 is too vague. Every other zone has caps on floor area, and OI-4 should include them.

Staff Response: A key feature in the proposed OI-4 district is the concept of a Development Plan, wherein the University would state what facilities it wants/needs to construct. If the Council approves, those facilities are authorized. Because there is no pre-ordained floor area maximum, the decisions about what facilities can be developed, what impacts those facilities would generate, and what mitigation measures need to be implemented can be addressed comprehensively.

5. If the OI-4 zone is approved as proposed and then applied to the main campus, the Council must approve a request to abandon the Smith Center Special Use Permit. The reference in Section 16.4 to Places of Assembly as a permitted use should be deleted; otherwise, UNC can simply abandon the Smith Center Special Use Permit.

Staff Response: If the OI-4 zone is adopted with the noted provision in Section 16.4, the University would be in a position to *request* abandonment of the Smith Center Special Use Permit. The University cannot unilaterally abandon the permit. If a request for abandonment is submitted, the Development Ordinance states that the Council shall approve the requested abandonment, if it finds that “all conditions of the Special Use Permit have been satisfied.” We noted above that a condition of the Smith Center Special Use Permit called for Appearance Commission approval of a Screening Plan. We expect the screening issue to be a key consideration in either review of a request for abandonment of the Special Use Permit, or review of a Development Plan for that area, or both.

6. Current proposed language in the OI-4 ordinance states that one of the review criteria for consideration of a Development Plan shall be the maintenance of property values for adjacent property. There is a need to define “adjacent,” in a manner that can allow consideration of affect on properties not immediately adjacent to a Development Plan

Staff Response: We believe that the language in the proposed ordinance is appropriate and workable, and that the definition of “adjacent” is clear: next to, adjoining, touching. If the Council wishes to change this concept, we would suggest using terms such as “nearby” or “in the vicinity of.” However, we believe that doing so would introduce substantial uncertainty for all who might be involved in the review of a Development Plan. We believe that the approach to considering possible negative impacts on properties not adjacent to a proposed Development Plan would be to consider the “health,

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safety, and general welfare” finding, rather than trying to document an effect on property values for a parcel that is not adjacent to proposed development. We recommend leaving the language as it was proposed on June 18.

7. Sections 16.5 and 16.6 refer to lighting impacts. This should be expanded to include the impacts of interior lighting.

*Staff Response:* We believe that the intent of these guidelines would be to identify impacts of new development on nearby properties, including spillover lighting from any source, whether outdoor or indoor. We do not believe that zoning regulations should further regulate the interior lighting of rooms of a building.

8. Sections 16.5 and 16.6 should be expanded to consider the impacts of energy infrastructure (towers and transmission lines).

*Staff Response:* When new electrical infrastructure (towers and transmission lines) are needed to serve new development, those are considered to be accessory uses, “customarily incidental” to development. The Development Ordinance exempts transmission poles, towers, and cables from setback and height restrictions, as long as such facilities “do not significantly impair the degree of solar access provided adjacent properties.” The ordinance also exempts three-phase electric power distribution lines and lines used to transmit electricity between generating stations or substations from underground requirements. We do not recommend altering the current community-wide approach to these facilities.

9. Section 16.9 should be adjusted to clarify whether the Town Manager’s 5% discretion is calculated based on existing or new development.

*Staff Response:* The purpose of this section is to specify that the authority of the Town Manager in reviewing/approving a proposed change to an approved Development Plan would be limited such that the amount of floor area and the number of parking spaces that were approved in the Development Plan could not be increased by more than 5%. It is not intended that the 5% rule be applied to all existing floor area and parking spaces. We have adjusted the recommended OI-4 ordinance to clarify this.

10. There needs to be a stronger link in the OI-4 zoning district between the ordinance language and related guidelines. Sections 16.3.1 and 16.7.1 specifically reference performance standards. The link needs to be stronger.

*Staff Response:* We agree that the guidelines should be referenced, and have added language to Sections 16.3.1 and Sections 16.7.1.

11. A citizen offered additional/revised standards for stormwater management.

Staff Response: A copy of comments from Ms. Kimberly Brewer is attached. The comments suggest language regarding control of volume of stormwater runoff. We agree with the need for control of volume, and this has been added to the proposed standards.

12. Section 16.7.3 should include a reference to the Town's Comprehensive Plan.

Staff Response: Section 16.7.3 specifies that findings that the Town Council would have to make in order to approve a Development Plan. The two findings are that that a proposed Development Plan would maintain the public health, safety, and general welfare, and that it would maintain the value of adjacent property. In drafting and discussing the proposed ordinance, consideration was given to adding a third finding related to the Comprehensive Plan. We did not include this in our proposed ordinance because (1) In considering the main campus, development decisions internal to the campus are not issues that are addressed in the Comprehensive Plan; in discussing the University, the Comprehensive Plan largely focuses on edge issues and community interface; And (2) For purposes of focusing on edge issues and community interface, the two findings that are included (health, safety, and general welfare, and value of adjacent property) most directly address those issues. The Planning Board also discussed this point specifically, and concurred with the staff recommendation.

13. The OI-4 zoning district should include a maximum Floor Area Ratio, and the number should reflect a maximum that considers existing floor area, and adds floor area only to reflect projects included in the recent bond referendum.

Staff Response: A key feature in the proposed OI-4 district is the concept of a Development Plan, wherein the University would state what facilities it wants/needs to construct. If the Council approves, those facilities are authorized. Because there is no pre-ordained floor area maximum, the decisions about what facilities can be developed, what impacts those facilities would generate, and what mitigation measures need to be implemented can be addressed comprehensively. We also refer to the University's response to this key issue, included in the accompanying rezoning memorandum as Attachment 14, for discussion of why the University is proposing the level of development that is contemplated in the accompanying rezoning request.

14. There should be height limits specified in the OI-4 district.

Staff Response: There currently are no height limits in the OI-3 zone, which covers most of the main campus, except that height is controlled at the edges of campus (first 100 feet into the OI-3 zone). The proposed new OI-4 zone uses a similar approach: no height limits specified, with required attention to height at perimeter areas.

15. Statements in the draft OI-4 district dealing with environmental standards are not strong enough.

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Staff Response: We believe that the main environmental issue of community concern, in contemplating development on the main campus, is management of stormwater runoff. We have proposed a detailed set of standards for managing stormwater, and recommend that the Council adopt these standards for use in evaluating and approving an application for a Development Plan.

16. What else speaks to traffic standards beyond what is in the ordinance?

Staff Response: A detailed set of guidelines has been prepared that suggests standards requirements for information related to traffic and transportation. We are recommending that the Council include reference to those guidelines in the draft ordinance, and that the Council adopt a resolution endorsing use of those guidelines. The guidelines are attached.

17. What would be the impact of these regulations on the Community Design Commission's review of Concept Plans and detailed building plans (materials, color, etc.)?

Staff Response: The Community Design Commission currently does not review detailed building plans for main campus buildings, except in unusual circumstances (e.g., a Special Use Permit). These new regulations would not change that.

18. How are standards developed and applied?

Staff Response: Accompanying this proposed OI-4 district are recommended standards for traffic/transportation, stormwater management, noise, and light. The standards are to be used as guidelines for the preparation of a Development Plan, and for evaluation of a submitted Development Plan. We are recommending that the Council include reference to those guidelines in the draft ordinance, and that the Council adopt a resolution endorsing use of those guidelines.

19. Can the Council reject a Development Plan if standards are not adequate?

Staff Response: The criteria for Council approval or denial of an application for a Development Plan focus on findings that proposed development (1) would maintain health, safety, and general welfare, and (2) would maintain value of adjacent property. Evaluation of how a proposed development mitigates the negative impacts it creates, as described in the standards, is a key piece of information in making or failing to make those findings.

20. Regulations should address potential adverse impacts from power generation.

Staff Response: The proposed standards focus on impacts of development: traffic, stormwater runoff, light, and noise. To the extent that power generation produces

negative impacts on surrounding areas in any of these categories, those impacts would need to be mitigated.

21. A Council member referred to a statement adopted by the Town Council regarding the limits of growth. How does the second paragraph of proposed Section 16.1 respond to that statement?

*Staff Response:* The intent of this proposed OI-4 zone is to establish a framework for the review of development proposals on a large parcel of land, like the UNC main campus, to identify possible negative impacts of that growth, and to identify measures that will serve to minimize and mitigate those negative impacts. It is possible that growth can produce some impacts that cannot be mitigated. The key decision point for the Council would be to review a Development Plan, review the probable impacts and mitigation measures, and decide if the findings can be made that health, safety, general welfare, and the value of adjacent properties would be maintained.

22. The preparation of Development Plans should be “required”, not “encouraged.” (Second paragraph of Section 16.2.)

*Staff Response:* The proposed Office/Institutional-4 zoning district is designed to provide a mechanism for both the Town and an applicant (in this case, the University) to review and discuss a large-scale Development Plan so that, in a situation like the main campus, there is opportunity for Town Council review without forcing each building to go through a Special Use Permit process. However, absent submittal and Council approval of a Development Plan, building-by-building Special Use Permits would be the required procedure. We do not believe that there is a need to require submittal of a Development Plan. If a property is rezoned to OI-4, but no Development Plan is submitted, then every application goes before the Council as a Special Use Permit unless and until there is an approved Development Plan.

23. How is Council oversight of the approval of individual buildings on campus to be accomplished? (Reference is to the description of approval of Site Development Plans by the Town Manager in the paragraph of Section 16.2.)

*Staff Response:* The main criterion for Town Manager review of a Site Development Permit application would be whether or not the application proposes development that is consistent with a Council-approved Development Plan. There would be no Council oversight of the approval of individual buildings. The process would be similar to other procedures in which it is the responsibility of the Town Manager to see to it that a detailed “next step” is consistent with a Council approval.

24. In Section 16.3, the proposed ordinance requires that a Development Plan project anticipated impacts of new development. For what area should impacts be studied?

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Staff Response: As proposed, a Development Plan would propose construction of specific facilities, and study the projected impacts of those proposed facilities as prescribed in a set of guidelines endorsed by the Town Council. The impact area would be determined on a case-by-case basis, depending on what is proposed in a particular Development Plan.

25. What does the phrase, “Outside the boundaries of the Development Plan” mean? (Reference to page 8 of June 18 memorandum on proposed OI-4 zone.)

Staff Response: A Development Plan will have a specific boundary identified. We believe that the reference is to a provision that would allow the applicant for a Development Plan to propose a parking deck and accompanying transit service, as a measure to mitigate traffic impacts, outside of the boundary of a Development Plan, so as to facilitate park-and-ride functions.

26. Section 16.4 would allow “Place of Assembly” as a permitted use. Does that amount to negation of the Smith Center Special Use Permit? What can be done to maintain the protection that the Smith Center Special Use Permit provides to nearby neighbors?

Staff Response: Allowing a “Place of Assembly” to be a permitted use would open the possibility that the holder of a Special Use Permit for such a use (e.g., the University, holding a Special Use Permit for the Smith Center) could request abandonment of such Special Use Permit. Two points are key: (1) the Special Use Permit in this case would not automatically disappear with the application of OI-4 to the main campus; the University would need to request the abandonment. And, (2) In order to approve such abandonment, the Council would need to find that all conditions of the Special Use Permit have been satisfied. It is this required finding that would allow the Council to hear presentation of what measures could be proposed to stand in the place of an abandoned Special Use Permit. We expect that, if the Council enacts the OI-4 zoning district as proposed, and if the main campus is rezoned to OI-4, a request to abandon the Smith Center Special Use Permit would be submitted in the context of an application for a Development Plan, which would show what is intended for the area around the Smith Center.

27. The phrase, “shall minimize impacts” is too vague. (Reference is to language on page 9 of June 18 memorandum on proposed OI-4 zone.)

Staff Response: The proposed OI-4 zone is designed to set a general procedural framework for review of large-scale Development Plans. It is expected that detail about identifying and mitigating impacts will be included in a Development Plan. We also note that, in an accompanying resolution tonight, the Council is asked to endorse a specific set of guidelines for use in identifying and mitigating impacts.

28. What is the implementation mechanism for transportation improvements needed to mitigate impacts?

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*Staff Response:* A Development Plan would identify impacts, and propose mitigation measures. Implementation of approved and required improvements would need to accompany the construction of facilities creating the impacts. We note that conditions of approval of a Development Plan could be specific about what measures need to be in place along with which facilities.

29. Should pedestrian facilities be explicitly addressed in Section 16.3 as a component of infrastructure to be studied?

*Staff Response:* We believe that pedestrian facilities are a critical component of any transportation discussion, and will be addressed in a Development Plan. We note that the recommended guidelines for preparation of a Development Plan application specifically call for evaluation of pedestrian movements.

30. Explain the enforcement mechanisms that would assure that what is approved is what gets built.

*Staff Response:* Enforcement mechanisms would be the same ones currently in place as part of the Town's development management system. Plans are reviewed to check for consistency with Council actions. Construction is monitored to check for consistency with approved plans. When violations are identified (development not in compliance with approved plans), the Town's Zoning Enforcement Officer contacts the property owner to initiate the following sequence: (1) Request compliance and/or remedial action; (2) If compliance is not achieved, begin assessing civil penalties; (3) If compliance is still not achieved, initiate the legal process to pursue court-ordered remediation and compliance.

31. Can there be a mechanism that would allow nearby neighbors to see the details of development plans before they are approved?

*Staff Response:* There will be multiple mechanisms. A Development Plan, once submitted, would be the subject of extensive public review. Notices would be mailed to property owners within 1,000 feet of the area proposed for development. There would be a Public Information Meeting to review plans, a Planning Board meeting to discuss recommendations, and a Council Public Hearing to take public comment. There is not a notification process proposed for the building-by-building Site Development Permit process, where the review is to confirm compliance with a Council-approved Development Plan.

32. This new district should have a "sunset" provision, so that it expires in eight years so that this approach can be revisited.



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Staff Response: We do not recommend including such a provision. We note that a future Council has the ability and authority to revisit and/or change regulations.

33. The OI-4 district should include provisions for notification of property owners within 1,000 feet of proposed development for both Development Plan and Site Development Permit applications. There is currently no process for public review of either.

Staff Response: There will be a full notification process when Development Plans are submitted (see above). Regarding Site Development Permits, the OI-4 process is currently designed to require a maximum of 3 work weeks between application for the building-by-building Site Development Permits and Town Manager action on such an application. This process does not contemplate notification for the building-by-building plans.

34. 90 days after submittal of an application is too short a time deadline for Council action on a Development Permit.

Staff Response: We agree that 90 days is a challenging time deadline. We also believe that it is sufficient to allow time for full notification and citizen information, Planning Board review, and staff review if this process is considered to be a priority. Timeliness of review and action has been a critical component of Town-University discussions in the preparation of this proposal. We believe that what has been proposed is workable.

35. Will citizens be allowed to offer further comments when this returns to the Council for possible action on July 2?

Staff Response: We expect that citizens will ask to address the Council on July 2. We know of no circumstance when the Chapel Hill Town Council ever has refused to hear citizens who ask to be heard at a public meeting, and anticipate that the Council will likely allow further citizen comments on July 2.