

**Summary of Town Council Directions:
Draft Land Use Management Ordinance**

November 13, 2002

*Summary Compiled by Chapel Hill Planning Department,
Indicating Town Council direction given at 11/05/02 Work Session*

*(Note: All references to "single-family" are intended to mean "single-family or
two-family/accessory apartment)*

1. Neighborhood Conservation Districts

Council Direction: No Change to 3rd Draft. 51% threshold for initiating a process, with final approval of a Neighborhood Conservation District By Town Council.

Key Fact: Approval of the standards in a District is by Town Council action.

Nonconforming Issues: None

2. Minor Subdivisions

Council Direction: No Change to 3rd Draft. Require approval by Planning Board.

Key Facts: A minor subdivision is one that creates not more than 4 lots, and does not involve new streets or extension of public utility lines; also includes townhouse lots within an approved multi-family development.

Nonconforming Issues: None

3. Burial of 3-phase Electric Lines

Council Direction: No Change to 3rd Draft. Require burial by developer if present legal tests are satisfied; seek legislation to authorize broader requirement.

Key facts: New procedure now in place to have off-site information available when Council considers applications; new notification mechanisms for spraying being requested.

Nonconforming Issues: None

Request for Additional Information: Cost Comparison for above/under ground lines for recent installation along Weaver Dairy Road Extension.

4. Height Limits

Council Direction: Stay with existing regulations, in current Development Ordinance, establishing a 29' height limit at the setback line of a property in most residential zones.

Nonconforming Issues: None

5. Parking

Council Direction: Stay with existing regulations, in current Development Ordinance, which establish minimum parking requirements (no maximums). Include language that would give flexibility to the reviewing body (Planning Board or Town Council) to be able to waive minimum requirements in specific circumstances, based on facts of each case.

Nonconforming Issues: None

Request for Additional Information: Ask Town Manager to report back on the possibility of a new initiative to study Chapel Hill parking demands and propose tailored parking requirements for specific uses in specific locations, with a goal of developing more specific standards within nine months of enactment of a new ordinance.

6. Front Yard Parking

Council Direction: Same as 3rd Draft. Parking limited to 40% of frontyard townwide.

Key Facts: Limitation currently exists in Historic Districts only.

Nonconforming Issues: Compliance required 6 months after notification.

7. Floor Area Ratio for Single-family, two-family dwellings

Council Direction: Change to require FAR for new duplexes, but not for single-family dwellings; change proposed ratio for duplex from .3 to .4; add that existing duplex structures are NOT nonconforming.

Nonconforming Issues: None

8. Occupancy Restrictions

Council Direction: Specify that, if there are more than 4 unrelated persons per dwelling unit, the use is treated as a rooming house.

Key Facts: Clarification of existing rules; Issue is related to new Rental Licensing Program.

Nonconforming Issues: No new nonconformities would be created. Noncompliance is a zoning violation, enforced through normal channels.

9. Tree Protection Regulations

Council Direction: Extend regulation to single-family and two-family development, as shown in Third Draft, but raise threshold to 4,000 or 5,000 square feet of newly disturbed land area.

Key Fact: None of the proposed requirements would prevent an owner of a single-family or two-family dwelling from removing a tree.

Nonconforming Issues: None

Request for Additional Information: For the Fourth Draft, include a threshold of 4,000-5,000 square feet of disturbed land area, with the final proposed threshold based on a staff estimate of resource costs and estimates of benefits. Also, explore the possibility and implications of establishing this threshold at 2,000 square feet, with consideration of impact on property owners. Specify a threshold for tree protection requirements that is identical to the threshold for stormwater management requirements (item 16, below).

10. RCD - Distance for Protected Area

Council Direction: Protected corridor should be specified as 150' from stream bank for perennial streams, with 3 zones: 50' streamside, 50' managed use, 50' upland. For intermittent streams, protected corridor shall be 50' from stream bank. Prohibit installation of stormwater management facilities within 50' of any perennial or intermittent stream. Eliminate limit on expansion of non-residential uses. Existing lots (including those to be created pursuant to Preliminary Plats approved prior to enactment of new ordinance) and existing development are subject to the current 50', 75', and 100' distance requirements from perennial streams in the current Development Ordinance, and are not subject to protection of intermittent streams.

Nonconforming Issues: For existing structures, existing lots, and lots in subdivisions that have been approved by the Council, there would be no change to the present RCD boundary on those properties and therefore no nonconforming status would result. There would be no restrictions on expansion of existing structures created by these changes.

11. RCD - 2' or 3' Above Floodplain

Council Direction: No Change to 3rd Draft. Increase RCD elevation from its present definition of 2' above the regulatory floodplain, to 3' above. Upon receipt of new floodplain maps, RCD elevation would be set as the 100-year flood elevation.

Key Facts: New maps might be available for Chapel Hill within the next 2 years.

Nonconforming Issues: For existing structures and lots, there would be no nonconforming status resulting from any change to the RCD boundary. There would be no restriction on expansion outside of regulatory floodplain.

12. RCD - Variance for Streets/Bridges

Council Direction: Require Special Use Permit or Preliminary Plat approval from the Council, rather than a Variance from the Board of Adjustment, for streets and bridges within the RCD.

Nonconforming Issues: None

13. RCD - What is Exempt from Regulation

Council Direction: Include language that specifies that, for ANY zoning lot existing as of the date of enactment, or for which a Preliminary Plat or Site Plan Review has been approved, the RCD boundary shall be calculated based on Development Ordinance language that applied immediately prior to enactment of a new ordinance. Specify also that existing, non-residential development within an RCD (outside of a federally regulated floodplain) would be able to expand, just as an existing residence would be able to expand.

Nonconforming Issues: Recommended language would exempt all existing lots and those approved by a Preliminary Plat or Site Plan Review from changes to the RCD boundary.

14. Steep Slopes

Council Direction: For portions of a site that have slopes 25% or greater, limit land disturbance in those areas to 50%; apply to all development except single-family dwellings; apply only to newly disturbed land after the date of enactment of new ordinance.

Nonconforming Issues: None

Request for Additional Information: Prepare an illustration showing how this recommended restriction compares to other proposals that have been offered.

15. Impervious Surface Limitations

Council Direction: Limit new impervious surface on a lot to 24% (or 50%, if stormwater facilities are provided) of the currently pervious areas. Consider possibilities for raising the maximum percentage, with stormwater facilities, to 70%. Exempt from calculations all impervious surface as of the date of enactment, unless otherwise regulated as part of watershed rules. Exempt single-family and two-family uses constructed or to be constructed on existing lots created prior to the date of enactment (or for which a Preliminary Plat has been approved by the Town Council prior to the date of enactment).

Key Facts: The southern half of Chapel Hill is covered by State-mandated watershed restrictions, and these more stringent rules (in place since 1993) would apply in those areas. Single-family/two-family exemption would mirror similar provision in watershed regulations.

Nonconforming issues: None.

16. Stormwater Management

Council Direction: Exempt single-family/two-family development on existing lots from volume requirements. Include a threshold of 4,000-5,000 square feet of disturbed land area, with the final proposed threshold based on a staff estimate of resource costs and estimates of benefits. Specify a threshold for stormwater management requirements that is identical to the threshold for tree protection requirements (item 9, above). Make language clear that the exemption recommended above applies only to single family/two family development on existing lots or lots pursuant to a Preliminary Plat that was approved prior to the date of enactment; the exemption would not apply to future subdivision applications, not yet approved as of the date of enactment. Such future subdivision applications must demonstrate compliance with stormwater management requirements.

Nonconforming Issues: None.

Request for Additional Information: Explore implications of a 2,000 square foot threshold.

17. Nonconforming Status

Council Direction: Incorporate all recommendations noted above, which will eliminate all nonconforming issues for single-family development (both for existing structures and for undeveloped single lots).

Nonconforming Issues: These recommendations would address all concerns that have been raised about nonconforming status for single-family development.

18. Water/Sewer Requirement

Council Direction: Add language to clarify that development that exists as of the date of enactment without public water and sewer is NOT nonconforming. Also add language to establish variance option if water and sewer cannot practically be extended to a site.

Nonconforming Issues: None.

19. Setbacks in Planned Developments

Council Direction: Delete required perimeter setbacks for a Planned Development (currently 50' on exterior boundary, 25' on interior boundary).

Key Facts: Planning Board has pointed out that current setback requirements prevent buildings in a Planned Development from being close to the street, often resulting in parking being located between street and buildings.

Nonconforming Issues: None

21. Response to UNC Comments

Council Direction: Add language to clarify the extent to which zoning regulations apply to development on State-owned property.

Nonconforming Issues: None.

Additional Points of Council Direction

- Ask the Planning Board and staff to monitor implementation of the new Land Use Management Ordinance, with a target of producing a report to the Town Council one year after enactment, noting a collection of suggestions for adjustment to the Ordinance. (Note: Any serious error that is identified should be brought to the Council's attention immediately.)
- Remove the sentence in Section 3.6.4e of the Watershed Protection District, which refers to the Resource Conservation District.