MEMORANDUM

TO: Chapel Hill Planning Commission

FROM: Mary Jane Nirdlinger, Planning & Sustainability
John Richardson, Planning Manager
Eric Feld, Planner II

SUBJECT: A Response to the Council's Request for Updates to the Ephesus/Fordham Form District Regulations

DATE: April 21, 2015
Note: This item was postponed to the May 5, 2015 Planning Commission meeting.

INTRODUCTION

Tonight we are returning to the Planning Commission for discussion on a proposal for a series of updates (text changes) to Section 3.11 of the Town's Land Use Management Ordinance (otherwise known as the Ephesus/Fordham Form District Regulations). The Planning Commission received a brief introduction to this item at the April 7, 2015 meeting.

BACKGROUND

The staff included the proposed Land Use Management Text Amendment (LUMOTA) on the agenda for the April 20, 2015 Council Public Hearing. The staff's preliminary recommendation was for the Council to:

1) Open the public hearing to begin receiving public comments on the staff's proposed text amendment;
2) Receive the staff's introductory report and presentation on the proposed text amendment; and
3) Continue the public hearing to the Council Public Hearing on September 21, 2015 in order to allow the Planning Commission sufficient time to review the materials and make a recommendation.

RECOMMENDATION

We recommend that the Planning Commission consider recommending enactment of the proposed LUMOTA to the Council (see attached draft text amendment for more details and explanations about the proposed changes).

NEXT STEPS

At the April 7, 2015 Planning Commission meeting, we provided a tentative schedule for review of the proposed LUMOTA that projected possible action by the Council at the May 27, 2015 Council Business Meeting. In response to feedback from the Planning Commission, we have

asked the Council to consider a revised schedule that provides the Planning Commission with the time necessary to consider the proposed changes and formulate a recommendation to the Council.

We anticipate the following remaining review schedule with all meetings to begin at 7:00 p.m. in the Chapel Hill Town Hall Council Chamber at 405 Martin Luther King Jr. Boulevard:

- **Planning Commission Meeting** (if necessary) – Tuesday, May 5, 2015
- **Planning Commission Meeting** (if necessary) – Tuesday, May 19, 2015
- **Planning Commission Meeting** (if necessary) – Tuesday, June 2, 2015
- **Planning Commission Meeting** (if necessary) – Tuesday, June 16, 2015
- **Council Public Hearing** – Monday, September 21, 2015
- **Council Business Meeting** – Monday, October 26, 2015

ATTACHMENTS

1) Memorandum to Council – Public Hearing: Proposal for Land Use Management Ordinance Text Amendment – Ephesus/Fordham Form District Regulations

MEMORANDUM

TO: Mayor and Town Council

FROM: Roger L. Stancil, Town Manager

SUBJECT: Public Hearing: Proposal for Land Use Management Ordinance Text Amendment—Ephesus/Fordham Form District Regulations

DATE: April 20, 2015

PURPOSE

Tonight the staff will present the Council with a package of updates to the Ephesus/Fordham Form District Regulations (form-based code). This proposal responds to a specific Council directive described in the May 12, 2014 Resolution on Continued Action[1] for the Ephesus/Fordham District.

OVERVIEW

There is early evidence that the Ephesus Form District regulations are facilitating a more predictable process which attracts redevelopment interest in underutilized properties. Ten months since the new regulations went into effect, three project applications have been received and one has been approved and is now entering the construction phase. For comparison, only two project applications of a similar nature were approved within the district over the last several years.

The staff has previously presented information about the first two permit applications and the first district progress report[2]. We have received feedback from the Council, the Community Design Commission and the technical review staff. We have learned from this feedback and we see opportunities to further clarify and improve the usability and standards established by the code. The package of updates included in this agenda item reflects our learning. We have submitted this same information to the Planning Commission and will provide those recommendations as they become available.

[1] http://chapelhill.granicus.com/MetaViewer.php?view_id=7&clip_id=2096&meta_id=88595
[2] http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=3053&meetingid=324

TOWN OF CHAPEL HILL
NORTH CAROLINA

MEMORANDUM

Meeting Date: 04/20/2015
AGENDA #[##]

TO: Roger L. Stancil, Town Manager

FROM: Mary Jane Nirdlinger, Planning & Sustainability
John Richardson, Planning Manager
Eric Feld, Planner II

SUBJECT: Public Hearing: Proposed Land Use Management Ordinance Text Amendment to the Ephesus/Fordham Form District Regulations

Recommended Council Action

Following the conclusion of tonight's discussion about this item, the staff's preliminary recommendation is for the Council to:

1. Open the public hearing to receive comments from the public on the staff's proposed Land Use Management Ordinance Text Amendment (LUMOTA);
2. Receive the staff's introductory report and presentation on the proposed text amendment; and
3. Continue the public hearing for the proposed LUMOTA to the Council Public Hearing on September 21, 2015 to allow the Planning Commission sufficient time to review the materials and make a recommendation.

Context with Key Issues

- On May 12, 2014, the Council enacted a Land Use Management Ordinance Text Amendment to create Section 3.11 (Ephesus/Fordham Form District Regulations) and Zoning Atlas Amendments to apply new zoning districts throughout the Ephesus Church Road/Fordham Boulevard Focus Area. That same evening, the Council also adopted a resolution on continued action. This resolution is a series of directives to the Town Manager, including one which asks for recommended updates to Section 3.11 (the Ephesus/Fordham Form District) of the Land Use Management Ordinance.
- On October 27, 2014, the Council received a work session-style presentation about the staff review of the first project application under the form-based code (Village Plaza Apartments).
- On January 26, 2015, the staff provided a comprehensive report about the Ephesus/Fordham Form District. Included with the report was a resolution to open a public hearing on April 20, 2015 to consider a text amendment for Section 3.11. That same evening the Council also received an email from the Community Design Commission which highlights some suggested changes to the Ephesus/Fordham development process and form-based code. (The staff's response to that information is found in an attachment to the staff report.)

- On February 9, 2015, the Council received a work session-style presentation about the staff review of the second project application under the form-based code (CVS at Rams Plaza).

Explanation of Recommendation

- As part of the Council's reporting process for ongoing activities in the Ephesus District, the technical review staff has shared some of its experiences working with the Ephesus regulations. This includes two project applications and the first progress report for the District. The Council and the Community Design Commission have each provided feedback. We have learned from this feedback and see opportunities to further clarify and improve the regulations. The proposed LUMOTA represents a package of text changes that reflects our learning and attempts to respond to the Council's interest in recommended updates to the regulations.
- The staff provided the Planning Commission with a brief introduction to the proposed text amendment on April 7, 2015. We plan to return to the Commission at their April 21, 2015 meeting to begin the discussion on this item. Because the Commission has not yet had enough time to review this information and formulate a recommendation, the staff has proposed a preliminary recommendation which asks to the Council to consider receiving information (both from the staff and the public) and continuing the hearing to the fall (September 21, 2015) so that the Planning Commission has enough time to complete its work.

Fiscal Note

- There are no fiscal impacts associated with this item.

Council Goal:

- Create A Place for Everyone
- Facilitate Getting Around
- Develop Good Places New Spaces
- Nurture Our Community
- Support Community Prosperity and Engagement

Attachments

- Manager's Memorandum
- Staff Report
- Resolution of Consistency
- Ordinance A – Enacting the Text Amendment
- Draft Ordinance Text Amendment
- Resolution A – Denying the Text Amendment
- Staff Response to 1.26.15 CDC Letter re FBC

MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: Mary Jane Nirdlinger, Planning & Sustainability
John Richardson, Planning Manager
Eric Feld, Planner II

SUBJECT: Public Hearing: Proposed Land Use Management Ordinance Text Amendment to the Ephesus/Fordham Form District Regulations

DATE: April 20, 2015

PURPOSE

The Council is opening tonight's public hearing to begin receiving comments on a proposed Land Use Management Ordinance Text Amendment (LUMOTA) for a package of general updates to Section 3.11—the Ephesus/Fordham Form District Regulations (i.e. form-based code).

INTRODUCTION

The Council's May 12, 2014 Resolution on Continued Action[1] directs the Town Manager to "recommend to the Council whether any future updates to the Land Use Management Ordinance (LUMO) should also be incorporated in form district regulations." Over the last ten months, the staff has presented information about our experiences with the Ephesus District. During that time we have also received feedback from the Council, the Community Design Commission and the technical review staff. We have learned from this feedback and see some opportunities to improve the usability and outcomes prescribed by the code. The staff's preliminary recommendation is for the Council to: (1) open the public hearing to begin receiving public comments on the staff's proposed LUMO text amendment; (2) receive the staff's introductory report and presentation on the proposed text amendment; and (3) continue the public hearing to the Council Public Hearing on September 21, 2015 in order to allow the Planning Commission sufficient time to review the materials and make a recommendation.

BACKGROUND

Following Council enactment of the Ephesus/Fordham Form District Regulations at the May 12, 2014 meeting, members of the Council expressed interest in directing the Town Manager to take

[1] http://chapelhill.granicus.com/MetaViewer.php?view_id=7&clip_id=2096&meta_id=88595

subsequent actions to renew the Ephesus/Fordham District. In response, the Council adopted a Resolution on Continued Action. Action listed in the Resolution includes providing regular progress updates to the Council on renewal of the Ephesus/Fordham District and opportunities for the Council to hold work sessions for Form District Permit applications.

The Council provided feedback about the regulations following a work session-style presentation for the proposed Village Plaza Apartments on October 27, 2014[2], a work session-style presentation for the proposed CVS at Rams Plaza on February 9, 2015[3] and the first Ephesus/Fordham District progress update on January 26, 2014[4]. Additionally, the Community Design Commission provided feedback regarding the Ephesus/Fordham Form District regulations in an email to the Council[5] on January 26, 2014. A staff response to the Community Design Commission's email is attached to this memorandum.

Tonight the Council is opening the public hearing on an amendment package that reflects our learning based on Council and Community Design Commission feedback as well as the staff's experience reviewing the first two Form District Permit applications.

TEXT AMENDMENT SUMMARY

The proposed text amendment is a reflection of what we have learned to this point. The majority of the proposed text changes could be considered general "clarifications": edits designed to improve the clarity, consistency and predictability of the language used in the Ephesus/Fordham Form District regulations. One example would be a change that adds the specific section or subsection number of the code (e.g., 3.11.2.7.) where it currently says "this Code"; another is a definition to support a term that is used throughout Section 3.11 (e.g., calendar days). Proposed clarifications also include edits to improve the way terms are described. For example, we propose to replace the term "No Frontage" street type with "Type C" street type in order to avoid confusion with other internal streets which do not have street frontage designations (i.e., those that are truly "no frontage"). These and other proposed changes can be found in the attached ordinance to this memorandum.

In addition to clarifying changes generally described above and found in the attached draft ordinance, we have learned that there are a series of possible edits that could improve the usability and outcomes prescribed by the regulations. We refer to these edits as "key considerations." The topics for key considerations—as well as the specific text edit numbers from the attached draft ordinance—are listed in more detail below:

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[2] http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=2926&meetingid=303
[3] http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=3057&meetingid=325
[4] http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=3053&meetingid=324
[5] http://chapelhill.granicus.com/MetaViewer.php?view_id=7&clip_id=2293&meta_id=94870

1. **Application of Adopted Town Plans:** New language is proposed to more clearly connect the guidance of the Town's comprehensive plan and other adopted plans with the Ephesus regulations. The purpose of this change would be to state the expectation that development will accommodate planned public amenities that are described in adopted Town Plans (e.g., Greenways Master Plan, Bicycle Plan, Parks Master Plan, and the Stormwater Master Plan). Whereas the current version of the regulations has a provision for applicants to provide greenway facilities shown on the Town's Greenway Master Plan, the revised language expands on this to include the accommodation of bicycle facilities, parks, and other amenities shown on other existing or future Council-adopted plans. (6)

2. **Application of Design Guidelines:** New language is proposed which describes the use of design guidelines within the district, for both the Community Design Commission and developers. This change could provide greater clarity and consistency about the application and maintenance of design guidelines, further reinforcing the existing language in subsection 4.b. on page 62. (7)

3. **Creation of Design Alternative:** This new subsection would provide for a design alternative that can only be approved by the Town Manager or Community Design Commission, as appropriate. Where approved, this provision would offer some flexibility for instances where site-related constraints make it difficult to meet the prescriptive regulations. (8)

4. **Use of Design Alternative for Utility Conflicts:** The existing regulations allow understory trees along road frontage only in areas where there are utility conflicts with three-phase power lines. We believe that cases of utility conflicts should be broadened to allow for a design alternative, approvable by the Town Manager or Community Design Commission, as appropriate, where any type of utility conflict may exist. Similar to #3 above, this would provide greater flexibility for properties or portions of properties for which utility conflicts present a challenge to meeting the prescriptive standards of the code. (28, 31, 37)

5. **Mechanism to Accept Proposed Greenway Alternatives:** We believe it is important under an administrative review process for the Town Manager to have the express authority to determine whether an applicant's proposed greenway alternative is acceptable to the Town in accordance with the Council's guidance (e.g., an adopted plan). This proposed change would accommodate that interest. (42, 44)

6. **Reduction of Recreation Fee Alternative where Public Facilities are Proposed:** For instances where an applicant's proposed recreation facility is made available to the general public, we believe it is important to provide the Town Manager with the flexibility to help achieve the publicly available facility by lowering the minimum fee requirement (as appropriate). This proposed change would allow the applicant to consider dedicating more of the required financial obligation to the construction of a publically available facility. (43)

7. **Definition of Build-to Zone with Consideration of Site Constraints:** This edit would allow for site constraints (the "buildable" conditions of a site) to be considered when determining how much of a frontage is suitable for development (see related proposal for definition of "buildable" in section 3.11.4.8.B.). In a related clarification, we also recommend changing the front line of the build-to zone (the minimum setback) to zero feet for Type A and Type B Frontages in order to simplify how buildings relate to streetscapes and rights-of-way. (47)

8. **Creation of Parking Reduction Incentive with an Approved Transportation Management Plan:** We recommend adding a new compliance mechanism for meeting minimum parking standards. The new provision would allow the applicant to reduce parking with an approved Transportation Management Plan (TMP)—a plan that identifies efforts to promote the use of alternative modes of transportation and may include a payment to the Town's Parking Fund. The LUMO provides for a similar parking reduction option in the Downtown parking standards. (50)

9. **Clarification of Drive-thru Screening in Relation to Public Realm:** We recommend updating the existing standards to clarify the applicant's need to screen drive-thru windows along Type A and Type B frontages, as well as any adjacent ground floor residential uses. This change clarifies and uses language consistent with Section 3.11 to ensure that drive-thrus are screened from the public realm. (52)

10. **Application of Stormwater Nutrient Credit:** For consistency with the Jordan New Development regulations are applied in the Ephesus/Fordham Form District regulations, it is recommend that the nutrient credit provision under section 3.11 apply to all projects (not just those with a net increase in built upon area). This change would also eliminate a possible incentive to increase impervious area in order to qualify for this provision. (57)

11. **Application of Sign Standards Consistent with LUMO:** In response to Council feedback, we have added language to clarify that sign regulations apply to signage visible from the public right-of-way. This proposed change is consistent with the sign regulations found elsewhere in the Land Use Management Ordinance. We have also

included proposed language to clarify that a unified sign plan must be filed for an addition where the site is occupied by more than one tenant. (60)

12. **Application of Form District Permits:** Because Form District Permits are intended to enhance the public experience of the public realm, we believe ordinary repairs, interior upfits, and other renovations which do not increase or decrease floor area by more than 5% of the permitted amount or 2,500 square feet (whichever is larger) can be more effectively and efficiently managed through a Zoning Compliance Permitting process, where applicable. Changes that increase the footprint or number of stories of a building would still require a Form District Permit. (70)

13. **Longer Review Period for Final Action Deadlines:** In response to feedback from the Council and the Community Design Commission—as well as staff experiences with the first development applications—we recommend lengthening the maximum timeline for review of Form District Permit and Certificate of Appropriateness applications. The proposed update would extend the final action date for a Form District Permit from 45 calendar days to 75 working days. The change from calendar days to working days is consistent with other Town processes and also helps to account for times of the year when there are more observed holidays. Because the Community Design Commission currently has 60 calendar days from the acceptance of an application to make a decision on a Certificate of Appropriateness, the Commission review would be extended to 100 working days to maintain the same proportionate timing. Ultimately, the proposed change allows a maximum of approximately 112 calendar days for a decision on a Form District Permit and 150 calendar days for a decision on a Certificate of Appropriateness. (71, 75)

14. **Creation of Thresholds and Process for Permit Modification**: This series of proposed changes attempts to clarify the regulations by distinguishing between minor versus more significant modifications that require a Form District Permit. Floor area thresholds (5% or 2,500 square feet) are consistent with other parts of the LUMO, and a process using the term/definition “substantial conformance” is proposed to help further distinguish between minor versus more significant modifications. Similar to #12 above, changes that increase the footprint or number of stories of a building would still require a Form District Permit. (72, 77, 85)

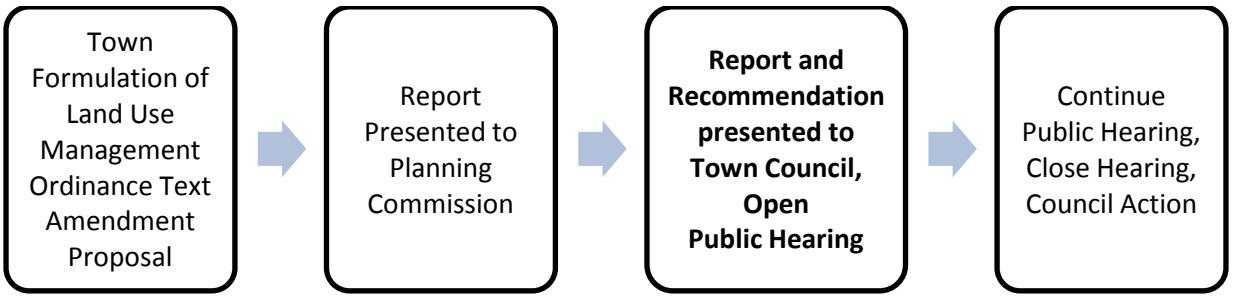
15. **Review of All Building Facades by Community Design Commission:** In response to Council and advisory board feedback, we recommend clarifying the Community Design Commission’s purview when reviewing Certificate of Appropriateness applications. The updated language would require the Commission to review elevations for all sides of a proposed addition, not just those visible from the public right-of-way. (74)

16. **Consideration of Street Type Hierarchy by Community Design Commission:** The intent of the Regulating Plan within the Ephesus/Fordham Form District regulations is to identify streets of highest walkability and potential for activating street frontages. Under this convention "Type A" street frontages create "main street" environments, "Type B" street frontages create quiet pedestrian settings at the building, and streets like Fordham Boulevard allow high traffic volumes. If the Community Design Commission is required to review all sides of a proposed addition, we believe it is important for the regulations to recognize a hierarchy of street frontages, such that facades along "Type A" streets should be emphasized for their prominence, followed by facades along "Type B" streets, facades along "no frontage" streets (i.e. "Type C" streets as proposed) and then backs of buildings. (74)

17. **Definitions:** We are recommending additional definitions for terms that are used throughout the Ephesus/Fordham Form District regulations, such as: "public realm", "right-of-way", "buildable" and "street-facing façade." Many of these proposed definitions are for terms that reinforce how buildings relate to the pedestrian environment under a form-based code. Other definitions like "substantial conformance" or "working day" relate to proposed changes that would improve procedural and administrative requirements of the regulations. A full explanation of these definitions appears in the attached draft ordinance amendment. (80, 81, 82, 83, 85)

PROCESS

A proposed text amendment to the Land Use Management Ordinance requires the Town Manager to: 1) conduct an evaluation of the proposed text amendment; 2) present a report to the Planning Commission; 3) notify property owners of the proposal; 4) hold a public hearing; and 5) present a report and recommendation to the Town Council.



Public Notice

On October 3, 2014 and March 2, 2015 notice of the public hearing was sent to the property owners and owners of property within 1,000 feet of the properties proposed for rezoning. Notice

of the proposed text amendment and rezoning was also included in the Classifieds section of the Chapel Hill News on October 5, 2014, October 12, 2014, April 5, 2015, and April 12, 2015. Also, signage was posted in the neighborhood. Copies of the agenda materials for the proposed text amendment are available in the Communications and Public Affairs Department. Documents are also available on the Town's website at the following link: www.townofchapelhill.org/councilvideo

ANALYSIS OF THE PROPOSAL

Article 4.4 of the Land Use Management Ordinance[6] (Appendix A of the Town Code) 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.

Following is a staff response to the three required considerations:

A) To correct a manifest error in the appendix:

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

Argument in Support: To date no arguments in support have been submitted.

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

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6 https://www.municode.com/library/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALAUSMA_ART4PR_4.4ZOAM

B) 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: During the adoption of the Ephesus/Fordham Form Base Code regulations residents and Council expressed interest in incorporating future updates to the Land Use Management Ordinance into the Form District Regulations. The Council approved a resolution directing the Town Manager on continued action for renewal of the Ephesus/Fordham District.

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

C) 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 amendment can be justified to achieve the purposes of the goals and objectives from the Comprehensive Plan.

The following are themes from the 2020 Comprehensive Plan, adopted June 25, 2012:

Conforms	No.	2020 Comprehensive Plan Themes
✓	1	A Place for Everyone
✓	2	Community Prosperity and Engagement
✓	3	Getting Around
✓	4	Good Places, New Spaces
✓	5	Nurturing Our Community
	6	Town and Gown Collaboration

Based on our preliminary review, we believe the Council could make the finding that the proposed text amendment is in compliance with the Comprehensive Plan. Relevant goals and objectives in the Comprehensive Plan include, but are not limited to:

A Place for Everyone

- Family-friendly, accessible exterior and interior places throughout the town for a variety of active uses (Goal PFE.1)
- A range of housing options for current and future residents (Goal PFE.3)
- A welcoming and friendly community that provides all people with access to opportunities (Goal PFE.4)

Community Prosperity and Engagement

- Balance and sustain finances by increasing revenues and decreasing expenses (Goal CPE.1)
- Promote a safe, vibrant, and connected (physical and person) community (Goal CPE.3)

Getting Around

- A well-conceived and planned, carefully thought-out, integrated, and balanced transportation system that recognizes the importance of automobiles, but encourages and facilitates the growth and use of other means of transportation such as bicycle, pedestrian, and other public transportation options (Goal GA.1)
- Make an adaptable transportation system to support both dense and suburban development (Goal GA.4)

Good Places, New Spaces

- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal GPNS.3)
- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Goal GPNS.5)
- A community that welcomes and supports change and creativity (Goal GPNS.6) • Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Goal GPNS.8)

Nurturing Our Community

- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (NOC.8)

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

OPTIONS FOR POSSIBLE ACTION

The package of updates to the Ephesus/Fordham Form District regulations can be considered as a whole or in part. We offer the Council the following options for consideration:

1. Enact an ordinance and approve all proposed updates to the regulations;
2. Enact an ordinance and approve some proposed updates to the regulations as determined by the Council; or
3. The Council could choose to take no action to update the regulations.

RECOMMENDATIONS

Planning Commission Recommendation: The Planning Commission was introduced to the proposed text amendment on April 7, 2015 and is expected to continue reviewing the staff's proposal at their April 21, 2015 meeting. We will provide the Council with the Commission's recommendation once it becomes available.

Preliminary Staff Recommendation: Our preliminary recommendation is that the Council:

(1) Open the public hearing to begin receiving public comments on the staff's proposed Land Use Management Ordinance Text Amendment;

(2) Receive the staff's introductory report and presentation on the proposed text amendment; and

(3) Continue the public hearing to the Council Public Hearing on September 21, 2015 in order to allow the Planning Commission sufficient time to review the materials and make a recommendation.

ATTACHMENT
RESOLUTION OF CONSISTENCY

(Adopting the Land Use Management Ordinance Text Amendment proposal)

A RESOLUTION REGARDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE AMENDMENT TO IMPROVE CLARITY, CONSISTENCY, AND PREDICTABILITY IN THE REGULATIONS AND CONSISTENCY WITH THE COMPREHENSIVE PLAN (2015-_-_/

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to update the Ephesus/Fordham Form District regulations to improve clarity, consistency, and predictability and better align the regulations with the Council's vision for the Ephesus/Fordham District and finds that the amendment, if enacted, is reasonable and in the public's interest and is warranted, to achieve the purposes of the Comprehensive Plan, including the Ephesus Church Road/Fordham Boulevard Small Area Plan, as explained by, but not limited to, the following goals of the Comprehensive Plan:

- Family-friendly, accessible exterior and interior places throughout the town for a variety of active uses (Goal PFE.1)
- A range of housing options for current and future residents (Goal PFE.3)
- A welcoming and friendly community that provides all people with access to opportunities (Goal PFE.4)
- Balance and sustain finances by increasing revenues and decreasing expenses (CPE.1)
- Foster support of local businesses (Goal CPE.2)
- Promote a safe, vibrant, and connected (physical and person) community (Goal CPE.3)
- A well-conceived and planned, carefully thought-out, integrated, and balanced transportation system that recognizes the importance of automobiles, but encourages and facilitates the growth and use of other means of transportation such as bicycle, pedestrian, and other public transportation options (Goal GA.1)
- A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (Goal GA.2)
- Connect to a comprehensive regional transportation system (Goal GA.3)
- Make an adaptable transportation system to support both dense and suburban development (Goal GA.4)
- Create a comprehensive transportation system that provides everybody safe and reasonable access to all the community offers (Goal GA.5)
- Incorporate street planning into zoning code (Goal GA.7)
- A community that has a parking system based on strategies that support the overall goals of a holistic transportation system (Goal GA.8)

- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal GPNS.3)
- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Goal GPNS.5)
- A community that welcomes and supports change and creativity (Goal GPNS.6)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Goal GPNS.8)
- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (Goal NOC.8)

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds the proposed zoning text amendment to be reasonable and consistent with the Town Comprehensive Plan.

This the _____ day of _____, 2015.

ORDINANCE
Enacting the Land Use Management Text Amendment

AN ORDINANCE ENACTIING A LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT TO THE EPHESUS/FORDHAM FORM DISTRICT REGULATIONS TO IMPROVE THE CLARITY, CONSISTENCY, AND PREDICTABILITY IN THE REGULATIONS (2015-_-_/

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to update the Ephesus/Fordham Form District regulations to improve clarity, consistency, and predictability and better align the regulations with the Council's vision for the Ephesus/Fordham District and finds that the amendment is reasonable and is warranted, because of changed or changing conditions in the area or in the jurisdiction generally, and in order to achieve the purposes of the Comprehensive Plan including but not limited to:

- Family-friendly, accessible exterior and interior places throughout the town for a variety of active uses (Goal PFE.1)
- A range of housing options for current and future residents (Goal PFE.3)
- A welcoming and friendly community that provides all people with access to opportunities (Goal PFE.4)
- Balance and sustain finances by increasing revenues and decreasing expenses (CPE.1)
- Foster support of local businesses (Goal CPE.2)
- Promote a safe, vibrant, and connected (physical and person) community (Goal CPE.3)
- A well-conceived and planned, carefully thought-out, integrated, and balanced transportation system that recognizes the importance of automobiles, but encourages and facilitates the growth and use of the means of transportation such as bicycle, pedestrian, and other public transportation options (Goal GA.1)
- A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (Goal GA.2)
- Connect to a comprehensive regional transportation system (Goal GA.3)
- Make an adaptable transportation system to support both dense and surburban development (Goal GA.4)
- Create a comprehensive transportation system that provides everybody safe and reasonable access to all the community offers (Goal GA.5)
- Incorporate street planning into zoning code (Goal GA.7)
- A community that has a parking system based on strategies that support the overall goals of a holistic transportation system (Goal GA.8)
- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Goal GPNS.3)

- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Goal GPNS.5)
- A community that welcomes and supports change and creativity (Goal GPNS.6)
- Future land use, form, and density that strengthen the community, social equity, economic prosperity, and natural environment (Goal GPNS.8)
- Protect neighborhoods from the impact of development such as stormwater runoff, light and noise pollution, and traffic (NOC.8), and

WHEREAS, the Town staff has suggested updates based on the review of the first two Form District Permit applications in the Ephesus/Fordham District, and

WHEREAS, the Town Council provided feedback on the regulations following the January 26, 2015 progress update and following the work session-style presentations on Form District Permit applications on October 27, 2014 and February 9, 2015, and

WHEREAS, the Council finds that the redevelopment of the Ephesus Church Road/Fordham Boulevard area is appropriate and especially significant to the preservation of the visual character of the Town and is one where a Special Appearance District is appropriate, and

WHEREAS, with the establishment of this form district code, the staff shall provide regular reports to the Council on the progress of the associated work, with said reports provided to the Council over the course of ten years, beginning with biannual reports delivered during the first two years, and annual reports during the subsequent eight years.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Land Use Management Ordinance be amended as follows:

SECTION I

An amendment to Section 3.11 of the Land Use Management Ordinance is enacted to read as indicated in the Ephesus/Fordham Form District regulations (see Ordinance Attachment).

SECTION II

This ordinance is effective upon enactment.

This the _____ day of _____, 2015.

ORDINANCE ATTACHMENT

PROPOSED TEXT AMENDMENT LANGUAGE TO:

Land Use Management Ordinance Section 3.11 – Ephesus/Fordham Form District

No.	Reference	Proposed Change	Explanation	Planning Commission Comment
	Page 4			
1	3.11.1.1. Purpose	The Ephesus/Fordham Form District established in ~~this~~ **Section (3.11)** ~~Code~~ is intended for the specific area of the Town designated as a focus area~~s~~ in the Comprehensive Plan 2020. This Form District fosters a ~~series of~~ **residential,** mixed use and pedestrian-friendly area ~~districts~~.	Clarification – provides section number and offers clarity and consistency about the purpose statement (see existing language in District Summary page 6).	
2	3.11.1.2.A Overall Site Design, Purpose	… produces an environment of stable and desirable character, consistent with the **Ephesus/Fordham** Form District. These standards are implemented to ensure that development within th**is**~~e~~ Form District will be designed, arranged, **phased** and constructed in a safe, orderly, energy-efficient…	Clarification – provides clarity and consistency by adding the name of the form district and phasing to its purpose statement (see existing language about Additions and New Buildings page 64).	
3	3.11.1.2.D Overall Site Design, Application of Town Code	For development standards not covered by ~~this~~ **Section 3.11** ~~Code~~, the other applicable sections in the Town's Code of Ordinances	Clarification – provides section number.	

Key for proposed text edits: **Added** | ~~Removed~~ | Unchanged | **[ACTION]**

		shall be used as the requirement. Similarly…		
4	3.11.1.2.C Overall Site Design, Application of LUMO Requirements	**[MOVE edited text to below the list of LUMO provisions that do not apply]** Where **sections of** the Land Use Management Ordinance, **other than those listed above**, expressly conflict~~s~~ with a standard set out in ~~this~~ ~~Sec.~~ **Section** 3.11, the standards of this Section control.	 Clarification – provides new language for (but doesn't change) how the provisions of the Land Use Management Ordinance pertain to the Ephesus/Fordham Form District regulations.	
	Page 5			
5 6	3.11.1.2.E Overall Site Design, Design Manual	E. **Application of Town** Design Manual. The Town ~~Council may adopt and~~ maintain**s** a Design Manual which contains specific design and construction standards. Such standards must be… **F. Application of Town Comprehensive Plan. Unless otherwise provided in this Section 3.11, the Ephesus/Fordham Form District regulations shall serve as a mechanism for accommodating and implementing the guidance of the Town's adopted Comprehensive Plan, which includes but is not limited to other plans related to greenways, bicycle facilities, parks and**	 Clarification – provides consistency for the subsection header and clarifies that the Town's Design Manual already exists.  Key Consideration – a new subsection (F) would provide clarity about the application of the Comprehensive Plan and any existing or future plan incorporated by reference.	

		stormwater.		
7		**G. Application of Ephesus/Fordham Design Guidelines. For the purposes of maintaining a consistent and cohesive design aesthetic in the Ephesus/Fordham Form District, the Town will maintain an adopted set of design guidelines. Applicants for development should use this guidance in preparing projects for the Community Design Commission's review.**	Key Consideration – a new subsection (G) would provide clarity and consistency about the application and maintenance of design guidelines (see existing language in subsection 4.b. on page 62).	
8		**H. Application of Design Alternatives. 1) Section 3.11.4.7 describes what elements of a project application should be reviewed and approved by the Town Manager and the Community Design Commission. Where a proposed design alternative is required to be reviewed as part of a Certificate of Appropriateness, the Community Design Commission will have the sole authority to review and approve such a proposal. Where a proposed design alternative is not required to be reviewed as part of a Certificate of Appropriateness,**	Key Consideration – a new subsection (H) would provide for a design alternative that can only be approved by the Community Design Commission. Where approved, this provision would offer some flexibility for instances where site-related constraints make it difficult to meet the prescriptive regulations.	

		the Town Manager will have the sole authority to review and approve such a proposal. 2) Where physical conditions or other characteristics of a development site pose a constraint making it difficult to meet the requirements of Section 3.11 (e.g., topography, lot size and shape, etc.), and where the Town Manager or Community Design Commission, as appropriate, makes a finding that a proposed design alternative could provide an equivalent or better result that meets the purpose and intent of Section 3.11, the Town Manager or Community Design Commission may approve such an alternative as part of a Form District Permit or Certificate of Appropriateness, as appropriate under 3.11.4.7.		
	Page 6			
9	3.11.2.1.D.3 Districts and Frontages, Frontages Established	3. **Type C Frontage** ~~S~~streets with significant traffic volumes that are not conducive to **sustained** pedestrian activity have been designated with **a Type C** ~~no f~~Frontage.	 Clarification – helps avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
10	3.11.2.1.D.4.a Districts and	Where a corner lot has a Type A Frontage and a Type B Frontage**,**	 Clarification – helps avoid confusion by	

	Frontages, Corner Lot Application of Frontages	**Type C Frontage** or no **designated** frontage requirements, the Type A Frontage requirements must be continued a minimum of 75 feet around the corner, measured from the intersection of the two right-of-way lines.	assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
11	3.11.2.1.D.4.b Districts and Frontages, Corner Lot Application of Frontages	Where a corner lot has a Type B Frontage**, Type C Frontage or** ~~and~~ no **designated** frontage requirements, the Type B Frontage requirements must be continued a minimum of 75 feet around the corner, measured from the intersection of the two right-of-way lines.	 Clarification – helps avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
	Page 7			
12	3.11.2.2. Regulating Plan	The Walkable Residential (WR-), Walkable Mixed Use (WX-) subdistricts **are identified** and **located** ~~designated Frontages apply to property as shown~~ on the **Town of Chapel Hill** Official Zoning Map. The Regulating Plan is ~~map below shows the general areas of each district~~ for illustrative purposes ~~only~~ **and is intended to show the general areas of each subdistrict and associated road frontage(s).** Additional street right-of-way or public easement may be required	 Clarification – provides clearer and more consistent language about how the zoning districts and frontages of the Regulating Plan apply, as well as how the subdistricts relate to the Town's Official Zoning Map.	

13 14 15		at the time of development, in accordance with the Ephesus Church/Fordham Boulevard Small Area Plan, and this Regulating Plan. **[ADD major street names to the Regulating Plan – Fordham Boulevard, Franklin Street, Elliott Road, Ephesus Church Road]** **[MAKE the edit below in the key and ADD a new color on the regulating plan for Frontage Type C]** **Type C**~~No~~ Frontage	 Clarification – provides information about the location of the district.  Clarifications – helps avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
	Page 8			
16	3.11.2.3. Walkable Residential (WR-3 and WR-7), Lot	Lot Dimensions (A) **Net land** ~~lot~~ area (min) 1,700 SF Lot Parameters (C) Outdoor amenity space ratio (min, applies to non-residential portion of building 0.20 Recreation space ratio (min), applies to residential portion of building. 1-3 story building 0.08 4+ story building 0.12	 Clarification – applies terminology consistent with other parts of Section 3.11 (e.g., "gross land area"); does not change the meaning.	

17		**[ADD the following text below the table for Lot Parameters]** **<u>Outdoor amenity space and recreation space are ratios of gross land area.</u>**	 Clarifications – provides consistent guidance about how the ratios are determined (see connection in 4.a. Standards on pages 19 and 20)	
18 19	3.11.2.3. Walkable Residential (WR-3 and WR-7), Placement	Building Setbacks (A) Front -Type A frontage (min/max) ~~5'~~ **<u>0</u>**/10' -Type B frontage (min/max) ~~5'~~ **<u>0</u>**/85' -**<u>Type C</u>**~~No~~ Frontage Build-to Zone (BTZ) (D) Building façade in BTZ (min. % of lot width) -**<u>Type C</u>**~~No~~ Frontage	 Clarifications – changes the minimum setback to zero feet to simplify how buildings relate to streetscapes and rights-of-way.  Clarifications – helps avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
	Page 9			
20	3.11.2.3. Walkable Residential (WR-3 and WR-7), Mass	Building Height (B) Building step back above 2nd or 3rd floor (min) **<u>in build-to zone</u>** - **<u>3 story buildings</u>** ~~10' or less from front property line~~ 10' **<u>step back above 2nd floor</u>** - **<u>4+ story buildings or greater</u>** ~~More than 10' from front property line~~	 Clarification – simplifies (without limiting) how the step back provision applies, and how it relates to rights-of-way and streetscapes.	

		10' step back above 2nd or 3rd floor ~~n/a~~		
	Page 10			
21 22	3.11.2.4. Walkable Residential (WX-5 and WX-7), Lot	Lot Dimensions (A) **Net land** ~~lot~~ area (min) 1,700 SF Lot Parameters (C) Outdoor amenity space ratio (min, applies to non-residential portion of building 0.20 Recreation space ratio (min), applies to residential portion of building. 1-3 story building 0.08 4+ story building 0.12 **[ADD the following text below the table for Lot Parameters]** **Outdoor amenity space and recreation space are ratios of gross land area.**	Clarification – applies terminology consistent with other parts of Section 3.11 (e.g., "gross land area"); does not change the meaning. Clarifications – provides consistent guidance about how the ratios are determined (see connection in 4.a. Standards on pages 19 and 20)	
23 24	3.11.2.4. Walkable Mixed Use (WX-5 and WX-7), Placement	Building Setbacks (A) Front -Type A frontage (min/max) ~~5'~~ **0**/10' -Type B frontage (min/max) ~~5'~~ **0**/85' -**Type C**~~No~~ Frontage	Clarification – changes the minimum setback to zero feet to simplify how buildings relate to streetscapes and rights-of-way. Clarifications - helps	

		Build-to Zone (BTZ) (D) Building façade in BTZ (min. % of lot width) -**Type C**~~No~~ Frontage	avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
	Page 11			
25		(B) Building step back above 2nd or 3rd floor (min) **in build-to zone** - **3 story buildings** ~~10' or less from front property line~~ 10' **step back above 2nd floor** - **4+ story buildings** ~~More than 10' from front property line~~ **10' step back above 2nd or 3rd floor** ~~n/a~~	Clarification – simplifies (without limiting) how the step back provision applies and how it relates to rights-of-way and streetscapes.	
	Page 12			
26 27 28	3.11.2.5. Frontages, Type A Frontage	Building Location (A) Front Setback (min/max) ~~5~~ **0**'/10' **[MOVE note about canopy trees to the bottom to make it clear that it applies to the entire frontage]** ~~(C)~~ Canopy trees are required unless **utility conflicts exist**~~three phase or greater power lines are involved~~, in which case **an equivalent or better alternative can be reviewed and approved in accordance with**	Clarification – changes the minimum setback to zero feet to simplify how buildings relate to streetscapes and rights-of-way. Key Consideration – broadens the definition of utility-related conflicts and allows for a design alternative, where approved. This relates to proposed edit #8 above.	

		Section 3.11.1.2.H. ~~understory trees are permitted~~		
	Page 13			
29	3.11.2.5. Frontages, Type B Frontage	Building Location (A) Front Setback (min/max) ~~5~~ **0**'/85'	 Clarification – changes the minimum setback to zero feet to simplify how buildings relate to streetscapes and rights-of-way.	
30		**[MOVE note about canopy trees to the bottom to make it clear that it applies to the entire frontage]**	 Key Consideration – broadens the definition of utility-related conflicts and allows for a design alternative, where approved. This relates to proposed edit #8 above.	
31		~~(C)~~ Canopy trees are required unless **utility conflicts exist**~~three phase or greater power lines are involved~~, in which case **an equivalent or better alternative can be reviewed and approved in accordance with Section 3.11.1.2.H.**~~understory trees are permitted~~		
32		Vehicular Way (E) Hedge **planting** or wall ~~(36" min)~~ ~~planting Z~~zone (36" min **height**) 5' **(min width)**	 Clarification – adds language to clarify that 36" is a minimum height standard and that 5' is a minimum zone width standard.	
33		Streetscape: (G) Tree planting zone (min) ~~6'~~ **With grates 6'** **Without grates 8'**	 Clarification – provides consistency with other tree planting zone provisions (see existing Streetcape standards on pages 12 and 14).	

	Page 14			
34 35 36 37 38	3.11.2.5. Frontages, No Frontage	[Heading] **Type C** ~~No~~ Frontage [Subheading] **TYPE C** ~~NO~~FRONTAGE Vehicular Way (E) Hedge **planting** or wall ~~(36" min)~~ ~~planting Z~~zone (36" min **height**) 5' **(min width)** **[MOVE note about canopy trees to the bottom to make it clear that it applies to the entire frontage]** ~~(C)~~ Canopy trees are required unless **utility conflicts exist**~~three phase or greater power lines are involved~~, in which case **an equivalent or better alternative can be reviewed and approved in accordance with Section 3.11.1.2.H.** ~~understory trees are permitted~~	Clarifications – describes the third frontage type (currently called "No Frontage") by assigning a name which differentiates it from streets that have no assigned frontage. Clarification – adds language to clarify that that 36" is a minimum height standard and that 5' is a minimum zone width standard. Key Consideration – broadens the definition of utility-related conflicts and allows for a design alternative, where approved. This relates to proposed edit #8 above.	
	Page 19			
39	3.11.2.7.A Measurements and Exceptions, Lot Area	**Net Land** ~~Lot~~ Area. **Net land** ~~Lot~~ area is the area included within the rear, side and front lot lines. **Net land** ~~Lot~~ area does not include	Clarification – applies terminology consistent with other parts of Section 3.11 (e.g., "gross land area"); does	

		existing or proposed right-of-way, whether dedicated or not dedicated to public use.	not change the meaning.	
40		**[ADD following text as new subsection 3.11.2.7.C and RE-ALPHABETIZE remaining subsections accordingly.]**	 Clarifications – applies an inline definition for "gross land area" consistent with the Land Use Management Ordinance; helps applicants understand how to determine gross land area, how it is different than net land area, and how it pertains to the calculation for amenity space and recreation space.	
41		**Gross Land Area. Gross Land Area is all area within the boundaries of a zoning lot (net land area) plus half of the following areas located within or adjoining the lot: (1) publicly-owned or otherwise permanently dedicated open space, such as parks, recreation areas, water bodies, cemeteries and the like, and (2) existing or proposed right-of-way, whether dedicated or not dedicated to public use; provided that the total amount of credited open space and public streets shall not exceed ten (10) percent of the net land area of the zoning lot.**		
42	3.11.2.7.C.3 Measurements and Exceptions, Greenway Alternative	Greenway Alternative. Form District development applications for sites that include any land which overlaps a portion of a proposed greenway shown on the Town's adopted Greenway Master Plan must be designed to	 Key Consideration – authorizes the Town Manager to determine whether a proposed greenway alternative is acceptable. Currently, the Town Manager does not have the express authority to deem a	

		accommodate the extension of that greenway in accordance with the Greenway Master Plan. A developer's financial obligation to contribute to the dedication and construction of the greenway is based on the formulas for calculation of amenity space and recreation space provided in **Section 3.11.2.7** ~~this Code~~. Land dedicated for a public pedestrian and non-motorized vehicle easement or deeded to the Town along the greenway may be substituted for required improved outdoor amenity or recreation space**, where deemed acceptable by the Town Manager.**	proposal acceptable; it must be accepted as proposed.	
43	3.11.2.7.D.2 Measurements and Exceptions, Fee Alternative	Fee Alternative. In lieu of providing recreation space, an applicant may, with the approval of the Town Manager, make a payment to the Town whereby the Town may acquire or develop recreation land or greenways to serve the development. A minimum of 50% of the required recreation space must be met through a payment in lieu. **The Town Manager may reduce the minimum requirement of a 50% payment in lieu if the proposed recreation facilities are made available to the general**	Key Consideration – authorizes the Town Manager to reduce the minimum payment in lieu requirement (50%) where a proposed recreation facility is made available to the general public; provides flexibility where a public benefit could be achieved by lowering the minimum requirement.	

		public. The amount of the payment is the product of the amount of recreational space required multiplied by a dollar amount established by the Town Council annually as part of the budget process. The applicant must make the payment before issuance of a Form District Permit, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the development.		
44	3.11.2.7.C.3 Measurements and Exceptions, Greenway Alternative	Greenway Alternative. Form District development applications for sites that include any land which overlaps a portion of a proposed greenway shown on the Town's adopted Greenway Master Plan must be designed to accommodate the extension of that greenway in accordance with the Greenway Master Plan. A developer's financial obligation to contribute to the dedication and construction of the greenway is based on the formulas for calculation of amenity space and recreation space provided in **Section 3.11.2.7** ~~this Code~~. Land dedicated for a public pedestrian and non-motorized vehicle easement or deeded to the Town	Key Consideration – under an administrative review process, this change provides express authority for the Manager to determine whether an applicant's proposed greenway alternative is acceptable to the Town in accordance with the Council's guidance (e.g., an adopted plan).	

		along the greenway may be substituted for required improved outdoor amenity or recreation space**, where deemed acceptable by the Town Manager.**		
	Page 21			
45 46	3.11.2.7.E. Measurements and Exceptions, Building Setbacks	2. Front setbacks are measured from the edge of the **nearest** right-of-way **line**. 5. When the side interior or rear setback is 0 or 5 feet, the building or structure must be placed on the side or rear property line or be placed a minimum of 5 feet from the side or rear property line **or the edge of the right-of-way line where applicable**.	Clarification – adds language to clarify the location of the right-of-way line. Clarification – provides consistent language with the other inline definitions for side interior and rear setbacks.	
47	3.11.2.7.F.2 Measurements and Exceptions, Built-to Zone (BTZ)	The required percentage specifies the amount of the front building facade that must be located in the build-to zone, measured based on the width of the building divided by the **buildable** width of the lot.	Key Consideration – allows for site constraints to be considered when determining how much of a frontage is suitable for development (see related proposal for definition of "buildable" in section 3.11.4.8.B.)	
	Page 26			
48	3.11.3.1.B Permitted Uses	Any one or more uses permitted in a Form District may be established on any lot within the subdistrict,	Clarification – provides section number.	

		subject to the permitted use table, and in compliance with all other applicable requirements of this **Section 3.11** ~~Code~~.		
	Page 30			
49	3.11.4.1.A.2.c Parking Standards, Additions	When the gross floor area or improved site area is increased by more than 50% cumulatively, both the existing use and the additional floor or site area must conform to the parking requirements of ~~this~~ **3.11.4.1** ~~Code~~.	 Clarification – provides section number.	
	Page 31			
50	3.11.4.1.C.1. Parking Standards, Reductions	**[ADD a new subsection D as written below]** **d. A reduction of up to 20% of the minimum parking requirements may be achieved by providing a transportation management plan subject to approval by the Town Manager or subject to approval by the Town Council if the proposed use requires Town Council approval. The transportation management plan shall identify efforts to promote the use of alternate modes of transportation and may include required parking and/or payment to the Town of Chapel Hill Parking Fund in accord with Chapter 11A of the Chapel**	 Key Consideration – encourages the use of alternative transportation by allowing a 20% parking reduction with a transportation management plan.	

		Hill Code of Ordinances for a portion of the required spaces.		
	Page 33			
51	3.11.4.1.F Parking Standards, Drive-Thru Standards	1. Location. Drive-thru~~'~~s ~~must be located~~ **are only permitted** at the mid-block along all Type A and Type B Frontages. Drive-thru areas, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru, must be located ~~to the rear of the building and~~ interior to the site. Drive-thru windows and lanes may not be placed **along a street-facing façade** ~~between a street (not including an alley) and the associated building.~~	 Clarification – uses language more consistent with Section 3.11 to improve clarity and ensure that drive thru windows and lanes are not to be positioned adjacent to streets shown on the Regulating Plan.	
52		4. Screening a. ~~Where drive-thru windows and lanes are permitted to be placed between a public street (not including an alley) or ground floor residential use and the associated building,~~ **Drive-thru windows and lanes must be screened from the public realm along Type A and Type B Frontages and adjacent ground floor residential uses for** the entire length of the drive-	 Key Consideration – clarifies and uses language consistent with Section 3.11 to ensure that drive thrus are fully screened from the public realm.	

		thru lane, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru.		
	Page 34			
53	3.11.4.2.C.1.a Landscaping Standards, Surface Parking Lots, Applicability	New Construction. All new surface parking lots with more than 10 spaces must provide parking lot landscaping in accordance with ~~this~~ **Section 3.11.4.2** ~~Code~~. Multiple platted lots contained on a single site plan and any separate parking areas connected with drive aisles are considered a single parking area.	Clarification – provides section number.	
54	3.11.4.2.A Landscaping Standards, Perimeter Screening	A minimum 5-foot wide, landscaped area with a continuous row of shrubs must be provided between the street and parking lot. For the **Type C**~~No~~ Frontage area **along Fordham Boulevard**, **the Community Design Commission** ~~CDC~~ will review and have the discretion to increase the required planting zone up to 12' (twelve feet).	Clarification – helps avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage"; offers consistent language about the applicability of the Community Design Commission's role in perimeter screening.	
	Page 35			
55	3.11.4.2.E.1 Landscaping	Applicability. All new service areas and the installation of new	Clarification – provides section number.	

	Standards, Applicability	mechanical equipment must provide screening in accordance with ~~this~~ **Section 3.11.4.2** ~~Code~~.		
	Page 36			
56	3.11.4.2.G.1 Landscaping Standards, Fence and Walls, Applicability	Applicability. All new fence and walls must be installed in accordance with ~~this~~ **Section 3.11.4.2** ~~Code~~.	 Clarification – provides section number.	
	Page 38			
57	3.11.4.3.F.4.d Stormwater Management, Design and Performance Standards	Notwithstanding 15A NCAC 2B. 104(q), redevelopment subject to this section that would replace or expand existing structures or improvements ~~and would result in a net increase in built-upon area~~ shall have the option of either meeting the loading standards identified in subsections 3.11.4.3.F.4.b. and c. above, or achieve 35% and 5% reduction for nitrogen and phosphorus, respectively, compared to the existing development.	 Key Consideration – clarifies that this provision under section 3.11 applies to all projects (not just those with a net increase in built upon area); eliminates a possible incentive to increase impervious area in order to qualify for this provision.	
	Page 42			
58	3.11.4.4.A.2 Sign Standards, Applicability	No sign may be erected, altered, refurbished or otherwise modified after the effective date of ~~this~~ t**he Ephesus/Fordham Form District regulations** ~~Code~~ except in accordance with the requirements of ~~this~~ **Section 3.11.4.4** ~~Code~~.	 Clarification – provides clarity and consistency about the name of the form district and the section number.	

	Page 43			
59	3.11.4.4.F Sign Standards, Permitted Signs	**[CHANGE the text in the table of permitted signs as shown below]** WR-Subdistricts: Type B or **C** ~~No~~ Frontage WX-Subdistricts: Type B or **C** ~~No~~ Frontage	 Clarifications – helps avoid confusion by assigning a name ("Type C Frontage") to what is currently a frontage type called "No Frontage".	
	Page 46			
60	3.11.4.4.A.2 Sign Standards, Applicability	**Unless specifically exempted, no sign visible from the public right-of-way, whether exterior to or interior to a structure,** ~~No sign~~ may be erected, altered, refurbished or otherwise modified after the effective date of this Code except in accordance with the requirements of this Code.	 Key Consideration – clarifies the application of the sign code in a manner that is consistent with the broader Land Use Management Ordinance.	
61	3.11.4.4.B Sign Standards, Permit Required	Permit Required. Except as specifically excluded in the Land Use Management Ordinance, Sec. 5.14.3, it is unlawful for any person to post, display, substantially change, or erect a sign or advertising device without first having obtained a Form District **Sign** Permit.	 Clarification – provides the language to make it clear that Form District Sign Permits are required for signage; Form District Permits apply to development projects.	

62	3.11.4.4.D Sign Standards, Unified Sign Plan	Existing unified sign plans approved prior to the effective date of this Article 3 remain in full force and effect for any building located in an existing development. Where an addition to an existing development occurs, a separate unified sign plan **that complies with Section 3.11.4.4** must be filed for the addition **where the site is occupied by more than one tenant**.	 Clarification – provides the language to better explain that a new unified sign plan is only required when there are multiple tenants in an addition.	
	Page 55			
63	3.11.4.5.A.1.a Site Lighting, Applicability	The installation of site lighting, replacement of site lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location must be made in compliance with ~~this~~ **Section 3.11.4.5** ~~Code~~. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures.	 Clarification – provides section number.	
64	3.11.4.5.A.2.a-c Site Lighting, Additions	a. When a building or site is renovated, any new or replaced outdoor light or lighting fixture must conform to the requirements of **Section 3.11.4.5** ~~this Code~~.	 Clarification – provides section number.	

65		b. When the gross floor area or improved site area is increased, the additional floor or site area must conform to the lighting requirements of **Section 3.11.4.5** ~~this Code~~.	Clarification – provides section number.	
66		c. When the gross floor area or improved site area is increased by more than 50% cumulatively, both the existing use and the additional floor or site area must conform to the lighting requirements of **Section 3.11.4.5** ~~this Code~~.	Clarification – provides section number.	
	Page 56			
67	3.11.4.5.D.1-2 Site Lighting, Design and Installation Requirements	1. The maximum light level of any light fixture cannot exceed 5.0 footcandles measured at the **back of curb in relation to** ~~right-of-way line of~~ a street.	Clarification – provides clearer guidance without changing the intent of the language.	
68		Where ~~a~~ **the Ephesus/Fordham** Form District adjoins a residential district, the maximum light level of any light fixture cannot exceed 2.0 footcandles measured at that property line.	Clarification – provides clarity and consistency about the name of the form district.	
	Page 59			
69	3.11.4.7 Administration of Form Districts	**[If WX-5A is approved, REASSIGN "Administration of Form Districts" section to new section 3.11.4.8]**	Clarification – reassigns subsection numbers as appropriate.	

70	3.11.4.7.C.1.a Administration of Form Districts, Review Required	It is unlawful to begin any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development, or to begin any construction, moving~~,~~ **or** alteration~~, or renovation, except for ordinary repairs,~~ of any building or other structure, including accessory structures and signs, until the Town Manager has issued a Form District Permit for such action, certifying that the development complies with the applicable provisions of this Section. **Form District Permits are not required for minor modifications such as ordinary repairs, interior upfits or other renovations which do not increase or decrease floor area by more than 5% of the permitted amount or 2,500 square feet, whichever is greater. A Zoning Compliance Permit or other permits may be required for such changes consistent with Section 4.9.**	Key Consideration – consistent with other proposed changes, these amendments clarify the language by distinguishing between minor versus more significant modifications that require a Form District Permit; floor area thresholds (5% or 2,500 square feet) are consistent with other parts of the LUMO. Changes that increase the footprint or number of stories of a building would still require a Form District Permit.	
71	3.11.4.7.C.4.c Administration of Form Districts, Action of the Application	Final action must be taken within **75** ~~45~~ **working** days of the acceptance of an application or 15 **working** days from approval of a Certificate of Appropriateness	Key Consideration – modifies the maximum number of days allowed for final action to be taken and clarifies that they are working (business)	

		(whichever is later), or within such further time consented to by written notice from the applicant or by Town Council resolution. Failure of the Town Manager to reach a decision within the prescribed time limit, or any extension, will result in the approval of the application as submitted.	days; these changes better reflect our experience with the process to date.	
	Page 60			
72	3.11.4.7.C.7 Administration of Form Districts, Action of the Application	Modification of Form District Permits. The Town Manager may approve a modification of a Form District Permit. **A change from what is included in an approved Form District Permit will be considered a modification if it would render a building approved under a Form District Permit out of substantial conformance as defined in subsection 3.11.4.8.B. Any other changes may be approved by the Town Manager or his designee and shall not constitute a modification. The application fee for a modification to a Form District Permit is established by the Council as part of the budget process.**	 Key Consideration – consistent with other changes proposed, this text provides a process for distinguishing between minor versus more significant modifications.	
	Page 61			
73	3.11.4.7.D.1.a Administration of	No exterior portion of any building or ~~other~~ **related** structure	 Clarification – adds language to make it clear	

	Form Districts, Certificate of Appropriateness	(including masonry walls, fences, light fixtures, steps and pavement), or any above-ground utility structure, may be erected, altered, restored or moved within the Form District until an application for a certificate of appropriateness as to exterior architectural features has been approved. **The above requirements do not apply to the demolition of any buildings or structures.**	that a demolition would not require a certificate of appropriateness; a zoning compliance permit is required for a demolition.	
74	3.11.4.7.D.1.b Administration of Form Districts, Certificate of Appropriateness	For purposes of this Section 3.11, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure ~~visible from any street right-of-way or public easement~~, including the kind and texture of the building material, and the type and style of all windows, doors and light fixtures. **Review should give consideration toward the hierarchy of street-facing facades as they relate to the different frontage types (A to B to C to no frontage).** For development along streets with **Type C** ~~No~~ Frontage requirements, the C**ommunity** D**esign** C**ommission** shall review and approve **certificates of**	 Key Considerations – broadens the review of the Community Design Commission by removing any limitations on the number or types of facades that can be reviewed; adds language which asks the Commission to consider the prominence of a building façade (e.g., high visibility) as part of its review; clarifies the third frontage type (currently called “No Frontage”) by assigning a name which differentiates it from streets that have no assigned frontage; spells out acronyms.	

		appropriateness ~~COA's~~ consistent with 3.11.4.2.C.2.a.		
	Page 62			
75	3.11.4.7.D.4.a Administration of Form Districts, Certificate of Appropriateness, Action on the Application	Within **100** ~~60~~ **working** days of the acceptance of an application, or within such further time consented to by written notice from the applicant, the Town Manager or the Community Design Commission shall issue a Certificate of Appropriateness, issue a Certificate of Appropriateness with conditions, or deny the application.	Key Consideration – modifies the maximum number of days allowed for a certificate of appropriateness determination to be taken and clarifies that they are working (business) days; these changes better reflect our experience with the process to date.	
76	3.11.4.7.D.4.d Administration of Form Districts, Certificate of Appropriateness, Action on the Application	The Town Manager or the Community Design Commission may impose such reasonable conditions with the issuance of a Certificate of Appropriateness as will ensure that the spirit and intent of this **Section 3.11** ~~Code~~ are achieved.	Clarification – provides section number.	
	Page 63			
77	3.11.4.7.D. Administration of Form Districts, Certificate of Appropriateness, Action on the Application	**[ADD a new subsection as written below]** **8. Modification of Certificate of Appropriateness. The Community Design Commission may review and approve a modification of a Certificate of Appropriateness. A**	Key Consideration - provides a process for the Community Design Commission to review Certificate of Appropriateness modifications, consistent with Section 3.11 and other changes proposed.	

		modification of this kind is defined as any change that exceeds "minor work" as it is defined in subsection 3.11.4.7.D.1.e. The application fee for a modification to a Certificate of Appropriateness is established by the Council as part of the budget process.		
	Page 65			
78	3.11.4.8.A.1.a Defined Terms, General Provisions	**[If WX-5A is approved, REASSIGN "Defined Terms" section to new section 3.11.4.9]** All words and terms used have their commonly accepted and ordinary meaning unless they are specifically defined in ~~this~~ **Section 3.11.4.9** ~~Code~~ or the context in which they are used clearly indicates to the contrary.	 Clarification – reassigns subsection numbers as appropriate.  Clarification – provides section number.	
79	3.11.4.8.A.2 Defined Terms, General Provisions	Graphics, Illustrations and Photographs. The graphics, illustrations and photographs used to visually explain certain provisions of ~~this~~ **Section 3.11.4.9** ~~Code~~ are for illustrative purposes only.	 Clarification – provides section number.	
80	3.11.4.8.B Defined Terms, Defined Terms	**Public Realm means the streetscape or any other non-vehicular, publically accessible area located along a designated**	 Key Consideration – defines a term specific to the form district which is used throughout section 3.11 to	

		frontage.	reinforce the importance of how buildings relate to the pedestrian environment.	
81		**Right-of-way means a fee simple dedication of private property or an easement, whereby public access and utility easements are granted.**	Key Consideration – describes different ownership models under which streetscapes and streets may accommodate public access and utility easements.	
82		**Buildable means land area that is suitable and available for development unconstrained by physical layout, topography, regulatory factors, existing or planned public facilities, utilities and the like.**	Key Consideration – provides a definition to support the use of this term as it is proposed for the description of the build-to zone (see Section 3.11.2.7.F.2 on page 21).	
83		**Street-facing façade means a building façade which directly abuts a street.**	Key Consideration – provides a definition to support the use of this term as it is used throughout Section 3.11.	
84		**This Section means Section 3.11 of the Land Use Management Ordinance.**	Clarification – where a subsection is not specified this language applies to the entire Section 3.11	
85		**Substantial conformance means conformance which leaves a reasonable margin for minor modification provided that:**	Key Consideration – provides a process for distinguishing between minor versus more significant	

		such modification is consistent with and does not materially alter the character of the approved development including the uses, layout and relationship to adjacent properties depicted on the approved Form District Permit or Certificate of Appropriateness; such modification does not increase or decrease floor area by more than 5% of the permitted amount or 2,500 square feet (whichever is greater); such modification is consistent with any proffered or imposed conditions that govern development of the site; and, such modification is in accordance with the requirements of the Town of Chapel Hill Land Use Management Ordinance.	modifications, consistent with other changes proposed.	
86		**Working Day means a day that the Town of Chapel Hill is open during normal business hours. This excludes weekends and observed holidays.**	 Clarification – defines what is meant as a working day	
87		**Day means one calendar day.**	 Clarification – removes confusion between the terms “Day” and “Working Day”	

RESOLUTION
(Denying the Land Use Management Text Amendment proposal)

A RESOLUTION DENYING A PROPOSAL FOR A LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT TO IMPROVE THE CLARITY, CONSISTENCY, AND PREDICTABILITY IN THE REGULATIONS (2015-_-_/R-#)

WHEREAS, the Council of the Town of Chapel Hill has considered the Town-initiated proposal to amend the Land Use Management Ordinance to update the Ephesus/Fordham Form District regulations to improve clarity, consistency, and predictability and better align the regulations with the Council's vision for the Ephesus/Fordham District and fails to find that the amendment:

a) corrects a manifest error in the chapter, or
b) is justified because of changed or changing conditions in the area of the rezoning site or the community in general, or
c) achieves the purposes of the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the Town-initiated proposal to amend the Land Use Management Ordinance to improve clarity, consistency, and predictability in the regulations.

This the _____ day of _____, 2015.

ATTACHMENT

Staff Response to 1/26/15 Community Design Commission Letter
Response prepared by the Planning & Sustainability Department Staff

At the January 26, 2015 Town Council Meeting, the Chair of the Community Design Commission, Mr. Jason Hart, provided a letter on behalf of the Commission which included the specific suggestions below. The staff responds with the comments below (in bold).

Review Process Suggestions

1) Consider adding a concept stage review prior to official submission. The current total review time allotted only allows the CDC to see projects twice during their regular meetings; once to provide initial comments, and a second time a final decision (approve / deny) must be issued regardless of changes (expected / unexpected) made after the initial comments. A concept review would allow a more integrated approach and save both the applicant and CDC revision time.

   Staff Comment*: We agree that the Certificate of Appropriateness review process can be improved with more meeting opportunities than are currently possible with a 60-day review timeline for the Community Design Commission to review a proposed development. In response to Council, Community Design Commission and applicant feedback, we are recommending that the regulatory review process be extended to 100 working days, which would allow the Community Design Commission additional time to consider approving a Certificate of Appropriateness application. This recommendation would involve a change to the Ephesus/Fordham Form District regulations. If the Community Design Commission needs more time, the applicant has the ability grant an extension to the review timeline.*

   Consistent with other Town review processes that do not include Town Council approval, no formal "Concept Plan" is required as part of the Ephesus review process. However, the current process does allow for applicants to seek courtesy review comments from the Commission prior to a formal application submittal. We encourage applicants to consider requesting courtesy review comments from the Community Design Commission prior to a formal application submittal.

2) Require review of all building facades visible from any current and future public way – not just street frontage.

   Staff Comment*: In response to this comment, the staff is proposing a text amendment to Section 3.11 of the Land Use Management Ordinance (Ephesus/Fordham Form District) which would enable the Community Design Commission to review all building facades regardless of their relationship to a current or future public way (street or right-of-way).*

Additionally, because the Ephesus/Fordham Form District Regulations place an emphasis on the importance of the public realm experience from "Type A" and "Type B" street frontages, we propose new text recognizing the hierarchy of building facades such that "Type C" street frontages (currently "No Frontage") or frontages with no designation be the preferable location for any necessary back-of-building features.

3) Require 3D views from street level be submitted.

Staff Comment: *Current submittal requirements for Certificate of Appropriateness applications in the Ephesus/Fordham District are consistent with submittal requirements for other applications reviewed by the CDC. Detailed exterior building elevations showing building facades are required, as well as color renderings, sketches, or perspective drawings. While we recommend maintaining the existing submittal requirements, we will continue to look to the Community Design Commission for feedback on the quality of application submittals and associated exhibits.*

4) Require material samples be submitted as they are with other developments.

Staff Comment*: We agree with this suggestion and have added it as a submittal requirement on the Certificate of Appropriateness application form.*

Code Revision Suggestions

1) Establish a smaller maximum block size to avoid massive buildings and create more human scaled streets.

Staff Comment*: We believe that block size was considered in the early planning of the district. The Regulating Plan found within the Ephesus/Fordham Form District regulations is reflective of a visioning process that was designed to create a more connected pattern of development conducive to a walkable, pedestrian-oriented environment with buildings designed to activate street frontages***.**

2) Consider stepped zoning or other alternatives to reduce building massiveness and allow more sunlight to the street as buildings rise to the allowed seven stories.

Staff Comment*: We agree that transitions in zoning intensity are important for the success of the District and adjacent neighborhoods. The regulating plan found in the Ephesus/Fordham Form District Regulations is designed to focus more intense development along major transportation corridors and transition to lower intensity as one moves further from the district core. The Ephesus/Fordham Form District*

regulations include provisions to create a more comfortable pedestrian environment. For example, the regulations require that a building be stepped back (above the 2nd or 3rd floor) by an additional 10' from an adjacent street when the building is positioned 10' or less from the property line. Another example is the streetscape requirements that provide for required setbacks, tree planting zones, sidewalks, and other features depending upon the road frontage. The staff is proposing a text amendment that would maintain these requirements and modify the language so that it is consistent with the definitions and terms proposed for other related text amendments. As development progresses in the District, we will continue to check in with the Council and Community Design Commission regarding the quality of the public experience along streets and frontages.

3) Consider publically accessible open space provisions and easy pedestrian connectivity to adjacent properties to increase pedestrian activity and create periodic places / destinations.

Staff Comment*: The intent of the Ephesus/Fordham Form District regulations is to foster a more walkable, pedestrian-friendly environment by requiring that new development provides streetscapes and pedestrian ways along all identified frontages in the District. By requiring streetscapes and pedestrian ways (sidewalks and tree planting zones), new development will work to create a more active street front that also improves pedestrian connections within the district. The current regulations have requirements for amenity space, recreation space and greenway extensions. The staff is proposing a text amendment that would further require development to support all adopted planning initiatives of the Town's Comprehensive Plan, including but not limited to the Parks Master Plan, Bike Plan and Stormwater Master Plan. As part of a Council adopted action item, the staff continues to look for opportunities to create parks and open space within the district.*

4) Consider additional architectural design guidelines that may account for form, proportion, and context beyond the planning footprint of the building.

Staff Comment*: The staff is drafting a Request for Proposals (RFP) to create design guidelines for the district. As part of this process, the staff will seek input and recommendations from the Community Design Commission for both the RFP as well as any proposals that are submitted in response.*

5) Consider adding standards for parking structures, i.e. wrapping them with function or otherwise avoiding exposed utilitarian decks.

Staff Comment*: We are proposing a change to the Ephesus/Fordham Form District Regulations which would allow the Community Design Commission to review all building elevations as part of a Certificates of Appropriateness review. Under the proposed changes, if the Commission believes a design for an exposed parking structure to be inappropriate for any proposed elevation, it may work with the applicant on a more aesthetically appropriate design.*

6) Consider incentives (density or height bonuses) for community amenities such as affordable housing, pedestrian malls, quantifiable water and energy savings beyond an acceptable standard (such as ASHREA 90.1 2010), etc.

Staff Comment: *Upon approval of the Form District Regulations on May 12, 2014, the Council approved a* resolution[1] *directing the Town Manager to take continued action toward the renewal of the Ephesus/Fordham District. In the resolution, the Council expressed interest in pursuing options for affordable housing for a range of incomes, sustainable design principles that target water and energy use and provision of public amenities. The staff provided the Council with a progress report toward these objectives at the January 26, 2015 meeting.*

In response to Council feedback, the staff is proposing an option to partner with UNC School of Government's Development Finance Initiative to explore strategies for providing affordable housing in the District.

In November of 2014, the Town Council adopted an energy and water incentive which rebates construction permitting fees up to 35% for projects that meet or exceed established Energy Star and water performance standards.

The current regulations do not preclude a property owner from constructing a pedestrian mall.

[1] http://chapelhill.granicus.com/MetaViewer.php?view_id=7&clip_id=2096&meta_id=88595