

MEMORANDUM

TO: 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: June 16, 2015

INTRODUCTION

At the May 19, 2015 Planning Commission meeting, the Commission reviewed a proposed text amendment recommending changes to Section 3.11 of the Land Use Management Ordinance (also known as the Ephesus/Fordham Form District Regulations). Prior to making a recommendation, members of the Commission expressed an interest in garnering feedback from the Community Design Commission (CDC) on the proposed changes—particularly from a design perspective. Members of the Planning Commission also expressed interest in receiving staff responses to members of the public who provided feedback to the staff proposal. Tonight, the CDC is being asked to provide the Planning Commission with feedback on the proposed changes.

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 Manger to take subsequent actions to renew the Ephesus/Fordham District. In response, the Council adopted a [Resolution on Continued Action](#)¹. Action listed in the Resolution includes recommending future updates to the Ephesus/Fordham Form District Regulations.

To date, the Town's technical review staff has reviewed three Form District Permit applications and three Certificate of Appropriateness 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

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

² <http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=2926&meetingid=303>

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.

The package of proposed changes to the Ephesus/Fordham Form District regulations reflects our learning based on Council and Community Design Commission feedback as well as the staff's experience reviewing the first Form District Permit and Certificate of Appropriateness applications.

RECOMMENDATION

We recommend that the Planning Commission continue discussion on the proposed text amendment and recommend that the Council enact the proposed ordinance..

ATTACHMENTS

- 1) Proposed Text Amendment Language to Land Use Management Ordinance
Section 3.11 – Ephesus/Fordham Form District (Revised March 31, 2015)
- 2) Staff Responses to Comments
- 3) April 20, 2015 Letter From Julie McClintock
- 4) May 2, 2015 Letter From Scott Murray

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

Ephesus/Fordham LUMOTA – Staff Responses to Public Comments

(Updated June 12, 2015)

Staff Responses to Comments Provided at May 26, 2015 Community Design Commission Meeting

1. John Gualtieri: General support for creation of a design alternative.

Staff Response: Comment noted.

2. Susana Dancy: If there was more staff expertise in urban design giving feedback, then a longer review period would not be necessary.

Staff Response: Comment noted.

3. Lucy Carol Davis: There is not a problem with time of review. Instead, there is a problem with the time for a developer to consider design. There should be time for more careful design consideration for larger projects than smaller projects. Extension of time could be related to the size of the project.

Staff Response: We have recommended longer final action timelines for Form District Permit and Certificate of Appropriateness applications in response to feedback from the Town Council and the Community Design Commission. Members of the Council expressed interest in a longer review period as a solution to multiple final deadline extensions granted by the Village Plaza Apartments applicant. Also, members of the Community Design Commission expressed an interest in a longer review period in a January 26, 2015 email to the Council.

Our experience in reviewing applications suggests that while the Town's technical review staff is able to complete most review tasks in the time allotted, a longer final action timeline would be helpful for finalizing some tasks required before a form district permit can be issued (e.g. procuring a recorded plat showing rights-of-way and/or public easements). Likewise, we agree that it is important to be both thorough and expeditious in completing reviews. Therefore, we revise our recommendation to 55 working days for final action on a Form District Permit application and 75 working days for final action on a Certificate of Appropriateness application.

We note that the proposed final action timeline change represents a maximum but does not prescribe a required total time length for any application review. Accordingly, a longer final action timeline would allow the Community Design Commission more time as necessary to review Certificate of Appropriateness applications; however, the Commission could also take action earlier if they felt that they had enough information to make a decision. In the interest of clarity and predictability, we recommend no change to the regulations to establish differing review procedures for larger and smaller projects.

4. Dixon Pitt: General support for review of all building facades by the Community Design Commission.

Staff Response: Comment noted.

5. Chris Berndt: Applicants should be required to provide 3D models.

Staff Response: Current submittal requirements for Certificate of Appropriateness applications in the Ephesus/Fordham District are consistent with submittal requirements for other applications reviewed by the Community Design Commission. Details 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.

6. Chris Berndt: Block sizes in the Ephesus/Fordham District are too large.

Staff Response: Our experiences reviewing the first form district permit applications has not identified any necessary changes to the currently prescribed regulating plan. The streets identified in the regulating plan follow a community visioning process intended to improve the quality of the suburban fabric of the planning area. Given the existing street network and large parcel sizes, it would be difficult mandate smaller block sizes. We do note, however, that the regulations do not preclude property owners from building internal streets.

7. Chris Berndt: The regulations allow for piecemeal development. Planning should be done for the overall site, though.

Staff Response: The regulations as written allow for development patterns that are consistent with the Land Use Management Ordinance as it applies to other areas of the Town. We do not recommend any change based on our experiences reviewing the first form district permit applications.

Staff Responses to April 20, 2015 Letter From Julie McClintock

Ahead of the April 20, 2015 Public Hearing, the Town Manager forwarded a proposed package of updates to Section 3.11 of the Town's Land Use Management Ordinance (Ephesus/Fordham Form District regulations). This proposal was offered in response to a specific Council directive described in the May 12, 2014 Resolution on Continued Action for the Ephesus/Fordham District. To satisfy this directive, the Town Manager recommended updates on the basis of our experiences reviewing the first Form District Permit and Certificate of Appropriateness applications, as well as feedback from the Town Council and the Community Design Commission.

During the April 20th Public Hearing, Ms. Julie McClintock petitioned the Council offering a series of recommendations for changes to Section 3.11. We have reviewed Ms. McClintock's recommendations and understand many of them to be separate from or in addition to the specific amendments proposed by staff. If the Council is interested in receiving staff responses to the additional areas of consideration identified in Ms. McClintock's petition, we will provide staff responses accordingly. The full list of recommendations is attached to this memorandum. At this time, we have responded below to the petitioner's recommendations that are associated with the specific amendments proposed by staff.

1. "The FBC should exclude the square footage of outdoor amenity space as fulfilling requirements for green spaces if the said space is restricted to use only by tenants and residents."

Staff Response: Land Use Management Ordinance Section 3.11 currently requires outdoor amenity space for non-residential development and recreation space for residential development. There are no requirements for green space. While the Town cannot require that private property owners allow unrestricted access to private property, we agree that publicly available facilities can improve the District where available. Accordingly, we are recommending flexibility in the regulations by allowing for a reduction to the minimum requirement of a 50% payment-in-lieu if the proposed recreation facilities are made available to the general public. We recommend that this provision appear in Land Use Management Ordinance Section 3.11.2.7.D.2.

2. "The FBC should require that all projects conform to a biking and walking plan within the district."

Staff Response: We have proposed new language to more clearly connect the guidance of the Town's comprehensive plan and other adopted plans with Land Use Management Ordinance Section 3.11. The purpose of this change would be to state the expectation that development should accommodate planned public amenities described in adopted Town plans (e.g., the 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 Greens 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. We recommend that this language be added as Land Use Management Ordinance Section 3.11.1.2.F.

3. “Add land for pocket parks. Payment in lieu could be used to purchase land within E-F. No permits in lieu should be allowed unless land can be secured within the district.”

Staff Response: The Resolution on Continued Action directs the Town Manager to seek opportunities for new parks and recreation facilities in the District. Inasmuch, payments-in-lieu can be used to purchase land within the District for Parks & Recreation facilities. As opportunities become available for new parks and recreation facilities, we will update the Council and provide recommendations as appropriate.

If the Town’s adopted Parks Master Plan is amended to include pocket parks, the newly proposed Land Use Management Ordinance Section 3.11.1.2.E (overall site design, application of LUMO requirements) would facilitate the expectation that development accommodate planned public amenities described in adopted Town plans.

4. “The FBC shall require the LUMO standard 5.4.6 c to all development projects.”

Staff Response: Land Use Management Ordinance Section 5.4.6(c) refers to general performance criteria for stormwater management—specifically the allowable stormwater runoff rate leaving the site. The same provision applies to the Ephesus/Fordham District in Section 3.11.4.3.F.3.

Land Use Management Ordinance Section 5.4 (stormwater management) does not apply to Section 3.11. This is because the stormwater provisions for the Ephesus/Fordham District are more stringent than those in Section 5.4. (Many of the same provisions in Section 5.4, such as 5.4.6(c), can be found in Section 3.11.) We have proposed further improving the stormwater regulations in Section 3.11 by recommending that the nutrient credit provision apply to all projects—not just those with a net increase in built upon area. This change would improve consistency with the Jordan New Development regulations and also eliminate a possible incentive to increase impervious surface area in order to qualify for this provision. We are proposing this change to Land Use Management Ordinance Section 3.11.4.3.F.4.d (stormwater management, design and performance standards).

5. “The FBC should limit/control fast-food and drive-through development.”

Staff Response: To enhance the public realm where drive-thru accessory uses are proposed, we are recommending new language that clarifies 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. We are proposing this change to Land Use Management Ordinance Section 3.11.4.1.F (parking standards).

Staff Responses to May 2, 2015 Letter From Scott Murray

1. **3.11.2.1.C.1 Districts and Frontages – “Consider language that would clarify that zoning boundaries follow final road alignments in situations where centerline adjustments are necessary to meet the public safety, health, and welfare.”**

Staff Response: We agree in principal; however, zoning boundaries (including their relationships to rights-of-way) are set in the Town’s official zoning atlas by the Town Council. The proper method for making adjustments to the metes and bounds described in the zoning atlas is through a zoning atlas amendment to be considered by the Town Council. As the Town continues to implement roadway improvements in the District, we will recommend that the Council consider changes to the Town’s zoning atlas as necessary—especially where roadway improvements intersect with recently changed zoning lines.

2. **3.11.2.1.C.1 Districts and Frontages – “The Town Manager should have the ability to interpret minor adjustments in the zoning boundaries where they are arbitrarily set (i.e. follow no particular roadway alignment, physiographic attribute or conceptual land use plan).”**

Staff Response: We do not recommend that the Town Manager make changes to the Town’s official zoning atlas without Council approval.

3. **3.11.2.1.C.1 Districts and Frontages – “Where lands are rendered undevelopable due to shift in zoning boundaries, consideration should be given to allow open space areas to satisfy the intent of the transition (i.e. WR-3 Districts).”**

Staff Response: The staff proposed text amendment includes a provision for the Town Manager and/or the Community Design Commission to consider approving an equal or better design alternative where the regulations are compromised by challenging and/or undevelopable spaces. We believe that a design alternative is the most appropriate tool for addressing a situation where lands are rendered undevelopable due to shifts in zoning boundaries.

4. **3.11.2.1.D.4.a Districts and Frontages, Corner Lot Application of Frontages – “Consider including a clarification note stating the requirement for Type-A parallel parking is not required to wrap the corner to Type-B Frontages.”**

Staff Response: Existing regulations allow for either Type A frontages with on-street parking or Type A frontages without on-street parking.

5. **3.11.2.1.D.4.a Districts and Frontages, Corner Lot Application of Frontages – “Consider language that would allow designated Type-A Frontages to be developed as Type B or C Frontages where streets intersecting with NCDOT Arterials (Fordham Blvd.) create a**

“protected stem” situation along the lesser street. In this situation on-street parking is often prohibited, limiting opportunities to create pedestrian-friendly sidewalk environments.”

Staff Response: We believe that a pedestrian-friendly environment is possible along a Type A frontage with or without on-street parking as described in Land Use Management Ordinance Section 3.11.2.5. We recommend no changes to the application of frontages or regulating plan at this time.

6. **3.11.2.3 Walkable Residential (WR-3 and WR-7), Mass – “Add language to clarify that a step back is not required for a 3-story building.”**

Staff Response: We agree that adding language that a step back is not required for a 3-story building would provide helpful clarity. We propose adding a new Section 3.11.2.7.H.6 that reads: “A building step back is not required for a 3-story building in the Walkable Residential or Walkable Mixed-Use districts.”

7. **3.11.2.3 Walkable Residential (WR-3 and WR-7), Mass – “Consider language that would allow 5-story buildings not be required to step-back provided a building-height to street corridor-width (i.e. building-to-building) relationship of 1:1 is not exceeded.”**

Staff Response: Recognizing both the technical difficulty of providing a building step back with wood frame construction and the importance of the relationship of building height to the public realm, we agree that the existing step back provisions can be improved. We recommend implementing one of two options that we have identified for improving the step back rule.

The first option would revise the building step back such that step backs would be required above 5 stories at the street edge. Further, a step back would be required above the 2nd or 3rd floor where a tower is proposed atop a podium (the initial building height). We believe that this approach would enhance the public realm experience for pedestrians, bicyclists, and motorists alike while providing a solution to the technical challenge of managing the transfer of weight from the upper story to the ground when implementing a step back.

A second option would revise establish new height articulation rules using a combination of podium height limitations and upper story building step backs. This approach would identify minimum and maximum podium height along the street frontage on the basis of a ratio of building podium height to streetscape width (build-to line o build-to line). Additional height would then be allowed above the podium where an upper story building step back is provided.

8. **3.11.2.4 Outdoor amenity space and recreation space are ratios of gross land area – “Assuming adoptions of the (3.11.4.7.C.4 Administration of Form Districts, Form District Permit, Action on the Application – Recommendation 1) noted below, add language clarifying that open amenity space and recreations space are based on Net Land Area rather than Gross Land Area”**

Staff Response: We recommend no change to the regulations as currently written. Calculating outdoor amenity space and recreation space on the basis of gross land area is consistent with similar calculations described elsewhere in the Land Use Management Ordinance, including recreation space. (Within the proposed updates to the regulations, use of the terms “net land area” and “gross land area” where applicable is offered as a clarification to the existing text rather than a new key consideration.)

9. **3.11.2.7.G.2.a Measurements and Exceptions, Setback Encroachments, Mechanical Equipment and Utility Lines – “Consider language that would allow for transformers to be placed within the 0’-10’ front setback.”**

Staff Response: We recognize that the regulations as currently written are intended to provide for an enhanced public realm experience—especially along Type A and Type B frontages. The existing regulations are intended to provide flexibility by allowing ground-mounted equipment to be vaulted underground anywhere within the front setback. We recognize, however, that vaulting can be cost-prohibitive and technically infeasible in some situations. Consequently, we recommend amending the newly proposed design alternative to allow for mechanical equipment to be placed in the front setback with Community Design Commission approval of a Certificate of Appropriateness where there is no practicable alternative. As such, we propose a new amendment to Section 3.11.2.7.G.2 as follows: **“d. In instances where the applicant cannot demonstrate any practicable alternative, mechanical equipment may be placed within the front setback with Community Design Commission approval of a proposed design alternative.”**

10. **3.11.2.7.G.2.a Measurements and Exceptions, Setback Encroachments, Mechanical Equipment and Utility Lines – “Consider language that would allow screening if required, permit the use of perforated metal (min. 60% opacity).”**

Staff Response: We recommend no change to the regulations as currently written, which are intended to shield ground-mounted equipment from visibility in the public realm. We believe that Section 3.11.2.E.5.c provides flexibility where necessary to provide for function and ventilation.

11. **3.11.4.7.C.4 Administration of Form Districts, Form District Permit, Action on the Application – “Consider language that allows the plat to be recorded after the approval of the Form Based Code Permit and Construction Drawings. A right-of-way dedication “exhibit” should be included in the FDP plans, to be later finalized with a recorded plat after approval of the FDP.”**

Staff Response: Staff Response: We agree with this argument in principle. We contend, however, that all final dedications should be made prior to issuance of a Building Permit rather than Certificate of Occupancy. In response to the suggestion, we are recommending a modification to the language in Section 3.11.4.7.C.4.a to read “If new rights-of-way or public easements are required, the proposed dedication shall be shown on the Form District Permit application, and the final dedication shall be recorded prior to the issuance of a Building Permit.”

- 12. 3.11.4.7.C.7 Administration of Form Districts, Action of the Application - “We believe this would be better written if it were simply stated “...to allow the Town Manager, or their designee to approve modifications to the FDP, without having to go back to CDC or Town Council as long as it was in substantial conformance as defined in subsection 3.11.4.8.B.”**

*Staff Response: For improved clarity, we recommend amending the proposed language to read as follows: “Modification of Form District Permits. The Town Manager may approve a **minor** modification of a Form District Permit **administratively**. A change from what is included in an approved Form District Permit will be considered a **major** 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 **minor** modification. The application fee for a modification to a Form District Permit is established by the Council as part of the budget process.”*

- 13. 3.11.4.7.D.4.a Administration of Form Districts, Certificate of Appropriateness, Action on the Application - “Please do not increase review time which would amount to an additional 5 calendar months (20 weeks) for a review and approval.”**




Staff Response: The staff proposed text amendment increases the total allowable review time in response to feedback from the Town Council and the Community Design Commission. Feedback from members of the Council following the January 26, 2015 progress report suggested extending the review timeline in response to the deadline extensions from the Village Plaza Apartments applicant. Additionally, feedback from the Community Design Commission in a January 26, 2015 email to the Council requested additional review time to work with the applicant. We emphasize that the proposed increase represents a maximum and believe that an increased timeline will allow more adequate time to complete all of the administrative processes necessary for permitting.




Likewise, we agree that it is important to be both thorough and expeditious in completing reviews. Therefore, we revise our recommendation to 55 working days for final action on a Form District Permit application and 75 working days for final action on a Certificate of Appropriateness application.



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 areas 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 this 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.	





		shall be used as the requirement. Similarly...		
4	3.11.1.2.C Overall Site Design, Application of LUMO Requirements	<p>[MOVE edited text to below the list of LUMO provisions that do not apply]</p> <p>Where sections of the Land Use Management Ordinance, other than those listed above, expressly conflicts with a standard set out in this Sec. Section 3.11, the standards of this Section control.</p>	 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	3.11.1.2.E Overall Site Design, Design Manual	<p>E. Application of Town Design Manual. The Town Council may adopt and maintains a Design Manual which contains specific design and construction standards. Such standards must be...</p>	 Clarification – provides consistency for the subsection header and clarifies that the Town's Design Manual already exists.	
6		<p>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</p>	 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.	





7		<p><u>stormwater.</u></p> <p><u>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.</u></p>	<p> 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).</p>	
8		<p><u>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,</u></p>	<p> 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.</p>	




		<p><u>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.</u></p>		
	Page 6			
9	3.11.2.1.D.3 Districts and Frontages, Frontages Established	<p>3. Type C Frontage Streets with significant traffic volumes that are not conducive to sustained pedestrian activity have been designated with a Type C Frontage.</p>	 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	<p>Where a corner lot has a Type A Frontage and a Type B Frontage,</p>	 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		<p>at the time of development, in accordance with the Ephesus Church/Fordham Boulevard Small Area Plan, and this Regulating Plan.</p> <p>[ADD major street names to the Regulating Plan – Fordham Boulevard, Franklin Street, Elliott Road, Ephesus Church Road]</p>	 Clarification – provides information about the location of the district.	
14		<p>[MAKE the edit below in the key and ADD a new color on the regulating plan for Frontage Type C]</p>	 Clarifications – helps avoid confusion by assigning a name (“Type C Frontage”) to what is currently a frontage type called “No Frontage”.	
15		<p>Type C No Frontage</p>		
	Page 8			
16	3.11.2.3. Walkable Residential (WR-3 and WR-7), Lot	<p>Lot Dimensions (A) Net land lot area (min) 1,700 SF</p> <p>Lot Parameters (C) Outdoor amenity space ratio (min, applies to non-residential portion of building 0.20</p> <p>Recreation space ratio (min), applies to residential portion of building. 1-3 story building 0.08 4+ story building 0.12</p>	 Clarification – applies terminology consistent with other parts of Section 3.11 (e.g., “gross land area”); does not change the meaning.	



17		<p>[ADD the following text below the table for Lot Parameters]</p> <p><u>Outdoor amenity space and recreation space are ratios of gross land area.</u></p>	 Clarifications – provides consistent guidance about how the ratios are determined (see connection in 4.a. Standards on pages 19 and 20)	
18 19	<p>3.11.2.3. Walkable Residential (WR-3 and WR-7), Placement</p>	<p>Building Setbacks (A) Front -Type A frontage (min/max) 5'-0/10' -Type B frontage (min/max) 5'-0/85' -Type C No Frontage</p> <p>Build-to Zone (BTZ) (D) Building façade in BTZ (min. % of lot width) -Type C No Frontage</p>	 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	<p>3.11.2.3. Walkable Residential (WR-3 and WR-7), Mass</p>	<p>Building Height (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 or greater More than 10' from front property line</p>	 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	3.11.2.4. Walkable Residential (WX-5 and WX-7), Lot	<p>Lot Dimensions (A) Net land lot area (min) 1,700 SF</p> <p>Lot Parameters (C) Outdoor amenity space ratio (min, applies to non-residential portion of building) 0.20</p> <p>Recreation space ratio (min), applies to residential portion of building. 1-3 story building 0.08 4+ story building 0.12</p>	 Clarification – applies terminology consistent with other parts of Section 3.11 (e.g., “gross land area”); does not change the meaning.	
22		<p>[ADD the following text below the table for Lot Parameters]</p> <p><u>Outdoor amenity space and recreation space are ratios of gross land area.</u></p>	 Clarifications – provides consistent guidance about how the ratios are determined (see connection in 4.a. Standards on pages 19 and 20)	
23	3.11.2.4. Walkable Mixed Use (WX-5 and WX-7), Placement	<p>Building Setbacks (A) Front -Type A frontage (min/max) 5'-0/10' -Type B frontage (min/max) 5'-0/85' -Type C No Frontage</p>	 Clarification – changes the minimum setback to zero feet to simplify how buildings relate to streetscapes and rights-of-way.	
24			 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 3 rd 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	3.11.2.5. Frontages, Type A Frontage	Building Location (A) Front Setback (min/max) 5-0’ /10’	 Clarification – changes the minimum setback to zero feet to simplify how buildings relate to streetscapes and rights-of-way.	
27		[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.	
28		(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		
	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 <u>an equivalent or better alternative can be reviewed and approved in accordance with Section 3.11.1.2.H. understory trees are permitted</u>		
32		Vehicular Way (E) Hedge planting or wall (36" min) planting 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 Streetscape standards on pages 12 and 14).	



	Page 14			
34	3.11.2.5. Frontages, No Frontage	[Heading] Type C No Frontage	 Clarifications – describes the third frontage type (currently called “No Frontage”) by assigning a name which differentiates it from streets that have no assigned frontage.	
35		[Subheading] TYPE C NOFRONTAGE		
36		Vehicular Way (E) Hedge planting or wall (36" min) planting zone (36" min height) 5' <u>(min width)</u>	 Clarification – adds language to clarify that that 36” is a minimum height standard and that 5’ is a minimum zone width standard.	
37		[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.	
38		(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		
	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	



40		<p>existing or proposed right-of-way, whether dedicated or not dedicated to public use.</p> <p><u>[ADD following text as new subsection 3.11.2.7.C and RE-ALPHABETIZE remaining subsections accordingly.]</u></p>	<p>not change the meaning.</p> <p> 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.</p>	
41		<p><u>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.</u></p>		
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	<p> 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</p>	




		<p>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.</p>	<p>proposal acceptable; it must be accepted as proposed.</p>	
43	3.11.2.7.D.2 Measurements and Exceptions, Fee Alternative	<p>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. <u>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</u></p>	<p> 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.</p>	




		<p>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.</p>		
44	3.11.2.7.C.3 Measurements and Exceptions, Greenway Alternative	<p>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</p>	<p> 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).</p>	




		along the greenway may be substituted for required improved outdoor amenity or recreation space, <u>where deemed acceptable by the Town Manager.</u>		
	Page 21			
45	3.11.2.7.E. Measurements and Exceptions, Building Setbacks	2. Front setbacks are measured from the edge of the <u>nearest</u> right-of-way <u>line</u> .	 Clarification – adds language to clarify the location of the right-of-way line.	
46		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 <u>or the edge of the right-of-way line where applicable.</u>	 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 <u>buildable</u> 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	<u>[ADD a new subsection D as written below]</u> <u>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</u>	 Key Consideration – encourages the use of alternative transportation by allowing a 20% parking reduction with a transportation management plan.	






		<u>Hill Code of Ordinances for a portion of the required spaces.</u>		
	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 <u>for</u> 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 <u>along Fordham Boulevard, the Community Design Commission CDC</u> 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 the 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	<p>[CHANGE the text in the table of permitted signs as shown below]</p> <p>WR-Subdistricts: Type B or C No Frontage</p> <p>WX-Subdistricts: Type B or C No Frontage</p>	 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	<p><u>Unless specifically exempted, no sign visible from the public right-of-way, whether exterior to or interior to a structure,</u> 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.</p>	 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	<p>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.</p>	 Clarification – provides the language to make it clear that Form District <u>Sign</u> 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, <u>or</u> 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. <u>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.</u>	 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. <u>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.</u>	 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 <u>related</u> 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. <u>The above requirements do not apply to the demolition of any buildings or structures.</u>	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. <u>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).</u> For development along streets with <u>Type C</u> No Frontage requirements, the <u>Community Design Commission</u> shall review and approve <u>certificates of</u>	 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] <u>8. Modification of Certificate of Appropriateness. The Community Design Commission may review and approve a modification of a Certificate of Appropriateness. A</u>	 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.	

		<u>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.</u>		
	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 <u>Section 3.11.4.9</u> 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 <u>Section 3.11.4.9</u> Code are for illustrative purposes only.	 Clarification – provides section number.	
80	3.11.4.8.B Defined Terms, Defined Terms	<u>Public Realm means the streetscape or any other non-vehicular, publically accessible area located along a designated</u>	 Key Consideration – defines a term specific to the form district which is used throughout section 3.11 to	

81		<p><u>frontage.</u></p> <p><u>Right-of-way means a fee simple dedication of private property or an easement, whereby public access and utility easements are granted.</u></p>	<p>reinforce the importance of how buildings relate to the pedestrian environment.</p> <p> Key Consideration – describes different ownership models under which streetscapes and streets may accommodate public access and utility easements.</p>	
82		<p><u>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.</u></p>	<p>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).</p> <p></p>	
83		<p><u>Street-facing façade means a building façade which directly abuts a street.</u></p>	<p> Key Consideration – provides a definition to support the use of this term as it is used throughout Section 3.11.</p>	
84		<p><u>This Section means Section 3.11 of the Land Use Management Ordinance.</u></p>	<p> Clarification – where a subsection is not specified this language applies to the entire Section 3.11</p>	
85		<p><u>Substantial conformance means conformance which leaves a reasonable margin for minor modification provided that:</u></p>	<p> Key Consideration – provides a process for distinguishing between minor versus more significant</p>	

86		<p><u>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.</u></p> <p><u>Working Day means a day that the Town of Chapel Hill is open during normal business hours. This excludes weekends and observed holidays.</u></p>	<p>modifications, consistent with other changes proposed.</p> <p> Clarification – defines what is meant as a working day</p>	
87		<p><u>Day means one calendar day.</u></p>	<p> Clarification – removes confusion between the terms “Day” and “Working Day”</p>	

April 20, 2015

Mayor and Town Council:

Please find attached a series of recommendations made by a group of citizens last May to improve the Ephesus Fordham Form Based Code.

Although the Town Council did not adopt them, we offer them to you again with the hope that they would yet hold value for improving the Code.


Julie McClintock

Ephesus-Fordham Form-Base Code Improvements

Recommendations were initiated by affected citizens and endorsed by those signing this letter
May 4, 2014

Note: Under NC state law, the Town cannot require affordable housing and other amenities for Form-Based Code; it is critical, therefore, to offer generous incentives to ensure that future development honors these Chapel Hill values. See Rationale at end of this document.

Paragraph of FBC	FBC Addition/Modification	Explanation	Rationale
3.2.7	The FBC should require bicycle parking for Parks & Open space.	The draft FBC is silent on this issue.	Parks & Open space would be a likely bicyclist destination place/use.
3.11.1.1.C (page 1)	The FBC shall be reviewed by the Council one year after adoption, and it shall be subject to revision as the Council deems it necessary.	This first FBC will be a new permitting procedure for Chapel Hill, and it is prudent to review how effective it is over the first year and then make necessary changes.	This has been requested by many concerned citizens.
3.11.1.1.B (page 1)	The FBC should stipulate that any proposed development shall be analyzed by Town staff to ensure that all development, as a minimum, produces a net neutral impact on the Town Budget over the initial 20 year time period of the development.	Tax revenues and impact fees must at least equal municipal services costs and infrastructure costs computed over the initial 20 year life of the proposed development.	Development must not produce a burden on taxpayers.
3.11.1.2.C (page 2)	No provision in the FBC shall be in conflict with nor supersede existing Chapel Hill LUMO requirements except for those requirements that are used in the SUP process.	The draft FBC states that certain LUMO requirements do not apply to the E-F district.	The stated goal of the FBC is to provide an accelerated review and permitting process. This should not be interpreted as weakening important LUMO requirements.
3.11.2.1.D.3 (page 3)	The FBC should require non-vehicular pass-throughs for pedestrians and cyclists between various sections of the district.	The draft FBC is silent on pass-throughs.	This will enhance walkability and connectivity within the district.

<p>3.11.2.1.D.5 (page 3)</p>	<p>The FBC should improve safe crossing or passage of Franklin St. and Fordham Blvd., such as a pedestrian bridge over Fordham Blvd., in conjunction with the Booker Creek Trail and other pedestrian crossings in the area. Crossings should be improved within the first two years after rezoning.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This will reduce a significant safety hazard for this new walkable district.</p>
<p>3.11.2.1.C.1a (page 3)</p>	<p>Play areas for children should be located in direct proximity to residential buildings.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This change will enhance the livability of the new residential development and reduce impervious surfaces.</p>
<p>3.11.2.1.C.1b & 2 (page 3)</p>	<p>The FBC should limit the zone building heights to 2 stories (30 feet). See rationale at end of this document.</p>	<p>The draft FBC permits building heights up to 7 stories, yet it also wants to incentivize the construction of energy efficient buildings and affordable housing. The only practicable incentive is to permit higher density construction in return for producing energy efficient buildings and affordable housing.</p>	<p>The Council, Planning Board, and the Community are in agreement on the necessity for energy efficient buildings and affordable housing within this district.</p>
<p>3.11.2.1.C.1b (page 3)</p>	<p>The FBC should stipulate that the Town Staff may authorize the construction of a residential, commercial, or mixed-use building beyond the code limit of 2-stories up to a maximum of 5-stories if the building design meets the AIA-2030 standards for reduced fossil fuel use</p>	<p>The draft FBC states that energy efficient buildings will be encouraged.</p>	<p>, and the AIA-2030 standards for reduced fossil fuel use in new construction are a well-defined metric.</p>
<p>3.11.2.1.C.1b (page 3)</p>	<p>The FBC should stipulate that the Town Staff may authorize the construction of a residential or mixed-use building beyond the code limit of 2-stories up to a maximum of 5-stories if the owner provides affordable housing units equal to 15% of the total housing units to be constructed.</p>	<p>The draft FBC is silent on this issue.</p>	<p>The Town Council, Planning Board, and the Community are all on record as desiring more affordable housing in Chapel Hill.</p>

<p>3.11.2.1.C.1b (page 3)</p>	<p>The FBC should stipulate that all new construction must meet LEED water reduction measures.</p>	<p>The draft FBC is silent on this issue.</p>	<p>Clean potable water is a valuable resource that should not be wasted.</p>
<p>3.11.2.1.C.1b (page 3)</p>	<p>The FBC should stipulate that the Town Staff may authorize the construction of a mixed-use or commercial building beyond the code limit of 2-stories up to a maximum of 5-stories if the owner provides below-market rate office or retail space equal to 15% of the total square footage to be constructed.</p>	<p>The draft FBC is silent on this issue.</p>	<p>The Town Council, Planning Board, and the Community are all on record as desiring more affordable retail/office space in Chapel Hill.</p>
<p>3.11.2.1.C.1c (page 3)</p>	<p>The FBC should stipulate that in the event of a conversion from rental units to condominium ownership in any one building, either a payment in lieu of, or a supply of affordable units for sale, per the inclusionary Zoning Ordinance in place at that time will be required.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This regulation is contained in the current SUP process, and its retention will have broad community support.</p>
<p>3.11.2.1.C.1c (page 3)</p>	<p>The FBC should require those who redevelop rental apartments to make reasonable accommodations for tenants who are displaced by the redevelopment, as Clay Grubb has agreed to do for residents of Glen Lennox. For example, the code might stipulate that any tenant who has lived in the E-F district for at least five years and whose housing will be lost by redevelopment shall be offered housing in the redeveloped E-F at their current rental rate.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This regulation will help to maintain affordable housing in the E-F district.</p>
<p>3.11.2.7.C.3b (page 15)</p>	<p>The FBC should include the daylighting of Booker Creek and continuing the greenway along the Creek.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This is desired by the Community the Planning Board, and the Greenways Commission.</p>

<p>3.11.2.7.4.C (page 15)</p>	<p>The FBC should stipulate that developers produce and implement comprehensive connected ground-level green open spaces within the E-F district totaling a minimum of 9 acres with significant areas planted with native plants.</p>	<p>This requirement will improve the connectivity and walkability of the E-F district.</p>	<p>This has been requested by many concerned citizens and was a feature of the preferred development framework described in the Small Area Plan.</p>
<p>3.11.2.7.C.4b (page 15)</p>	<p>The FBC should exclude the square footage of outdoor amenity space as fulfilling requirements for green spaces if the said space is restricted to use only by tenants and residents.</p>	<p>This is a modification to the draft FBC.</p>	<p>This change will enhance walkability and reduce impervious surfaces.</p>
<p>3.11.2.7.C.2.b (page 15)</p>	<p>Add land for pocket parks. Payment in lieu could be used to purchase land within E-F. No permits in lieu should be allowed unless land can be secured within the district.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This change will enhance the livability of the E-F district and reduce impervious surfaces.</p>
<p>3.11.3.5.C.10.a (page 24)</p>	<p>The FBC should require a Special Use Permit for Fuel Sales use</p>	<p>The draft FBC is silent on this issue.</p>	<p>In the interest of public safety, the Council should give final approval for fuel sales use.</p>
<p>3.11.3.5.C.9 & 3.11.4.1.F (pages 24 & 28)</p>	<p>The FBC should limit/control fast-food and drive-through development.</p>	<p>The draft FBC is silent on this issue.</p>	<p>The community desires to discourage vehicular traffic in the district.</p>
<p>3.11.3.5.Eb (page 25)</p>	<p>The FBC should permit the Town to construct a Farmers Market on a suitable site within the E-F district.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This will provide for an important community function.</p>
<p>3.11.4.1.D (page 27)</p>	<p>The FBC should limit surface parking areas between building and street frontage; or require more extensive buffering or screening between parking areas and the street, or require structured parking.</p>	<p>Draft FBC language may lead to a sea of large parking lots along Fordham Blvd.</p>	<p>This change will avoid a sea of large parking lots along Fordham Blvd.</p>

<p>3.11.4.1.E (page 27)</p>	<p>The FBC requires that all projects conform to a biking and walking plan within the district.</p>	<p>Connectivity will not happen unless Council adopts a mobility plan for bikers and walkers within the entire district.</p>	<p>This requirement will improve connectivity and walkability.</p>
<p>3.11.4.2.B (page 29)</p>	<p>Pervious pavement/parking lots should be maximized</p>	<p>The draft FBC is silent on this issue. The new FBC zone allows for significant increases in impervious surfaces which would increase what is there now. See impervious explanation at end of document.</p>	<p>This change will reduce stormwater runoff.</p>
<p>3.11.4.2.Cb & c (page 30)</p>	<p>Parking lot landscaping should provide for more trees and should use native trees and shrubs. Specifically, interior islands abutting rows of parking spaces must be a minimum of 8 feet in width and 150 square feet in area. Each island must include 1-2 canopy trees and native shrubs/plants.</p>	<p>The draft FBC requires relatively few trees for parking lots.</p>	<p>This change will reduce the heating effect of parking lots and improve the micro climate of the E-F district.</p>
<p>3.11.4.2.E.3.a (page 31)</p>	<p>Draft FBC, Page 34, Section E-3 Roof Mounted Equipment. Exclude certain solar energy equipment from the 10-foot requirement.</p>	<p>Certain solar energy collectors/panels can be mounted horizontally or at a low tilt on a flat roof, so they are not visible from the ground.</p>	<p>Waving this requirement will permit more solar collectors/panels to be roof-mounted.</p>
<p>3.11.4.3.B.7 (page 33)</p>	<p>The FBC should incorporate within the FBC a multi-functional storm water management plan that includes building-integrated solutions such as rainwater harvesting.</p>	<p>This district has a serious flooding problem, and the draft FBC is silent on this issue.</p>	<p>The community will not accept redevelopment that does not reduce flooding within the district and downstream of it.</p>
<p>3.11.4.3.B.8 (page 33)</p>	<p>The FBC shall require the LUMO standard 5.4.6 c to all development projects.</p>	<p>The draft FBC is silent on this issue.</p>	<p>This change will reduce the impact of downstream flooding.</p>

<p>3.11.4.3.D.2 (page 33)</p>	<p>The FBC should Incorporate Resource Conservation District regulations, tree planting caliper standards, steep slope regulations, and other environmental regulation from the Land Use Management Ordinance.</p>	<p>The draft FBC is silent on this issue.</p>	<p>These measures will help mitigate flooding, run-off and stormwater quality.</p>
<p>3.11.4.4.A.1 (page 36)</p>	<p>The FBC should specify that requests for variances will be advertised and publicly reviewed.</p>	<p>The draft FBC stipulates that the Manager will have full decision authority for variance requests.</p>	<p>The "predictability factor" inherent in an FBC should apply equally to the citizenry as well as to the developers.</p>
<p>3.11.4.4.A.1 (page 36)</p>	<p>The FBC should incorporate the present LUMO standards for signage in the FBC.</p>	<p>The draft FBC allows for signage that is more intrusive than allowed in the present LUMO standards.</p>	<p>If changing conditions/technologies warrant updating Chapel Hill's sign ordinance that should be done in a separate process for the town as a whole.</p>
<p>3.11.4.7.C.4b (page 52)</p>	<p>The FBC should allow a tiered review of development applications as follows: Staff approval for developments up to 35,000 square feet or 20 housing units; Planning Board approval for project 35,000-50,000 square feet or 20-50 housing units; and Council approval for developments greater than 50,000 square feet or greater than 50 housing units.</p>	<p>The draft FBC requires Staff approval for all developments.</p>	<p>This change will be consistent with the recommendations of the report "Form-Based Code Guide: Making Performance Count for Chapel Hill." Moreover, public review will help to minimize the undesirable consequences of the mistakes that will inevitably be made as staff and developers learn how to implement to the new zoning tool.</p>
<p>3.11.4.7.D.1c (page 54-55)</p>	<p>The FBC should stipulate that the CDC may regulate energy efficient windows and doors for new construction, including solar photovoltaic glazing for south-facing windows.</p>	<p>The draft FBC is silent on this issue.</p>	<p>Glazing is an exterior building material.</p>

<p>3.11.4.7.D.1c (page 54-55)</p>	<p>The FBC should stipulate that the CDC may regulate the installation of energy-efficient roofs on new buildings, such as white roofing with a reflectance of 0.72 and planted vegetation.</p>	<p>The draft FBC is silent on this issue.</p>	<p>Roofing is an exterior building material.</p>
<p>3.11.4.7.D.1c (page 54-55)</p>	<p>The FBC should stipulate that the CDC may regulate the installation of certain architectural features such as exterior light shelves, north clerestories with clear glazing, roof monitors, and roof overhangs whenever appropriate.</p>	<p>The draft FBC mentions light shelves.</p>	<p>Current NC laws and Chapel Hill ordinances can be interpreted this way.</p>
<p>3.11.4.7.D.1c (page 54-55)</p>	<p>If the building backs up to a residential neighborhood, the FBC should require that the back of the building has to be as "attractive" as the front.</p>	<p>The draft FBC does not call for windows on the back of a building.</p>	<p>This requirement will enhance the attractiveness of buildings.</p>
<p>3.11.4.7.E (page 56)</p>	<p>The FBC should include a Certificate of Adequate Public Schools (CAPS) as a requirement</p>	<p>New residential development will probably require more public school space.</p>	<p>CAPS are presently issued under the SUP process, which will no longer be necessary under the FBC. Therefore, it needs to be in the FBC.</p>
<p>3.11.4.7.F (page 57)</p>	<p>The FBC should include a Certificate of Adequate Public Transit (CAPT) as a requirement</p>	<p>The draft FBC is silent on this issue.</p>	<p>It is important to insure that there will be adequate public transit serving the E-F district before more dense development is approved.</p>
<p>3.11.4.7.F.1 (page 57)</p>	<p>The FBC should include an evaluation and approval process that would prohibit major projects that do not adequately mitigate associated traffic impacts</p>	<p>The draft FBC does not include any mechanism to address cumulative traffic impacts.</p>	<p>With the present traffic problems in the E-F district, the FBC needs to have a mechanism to require mitigation or deny permits that are shown to have negative traffic impacts</p>
<p>3.11.4.7.G (pages 58 & 60)</p>	<p>The FBC should include a Certificate of Adequate Public Greenspace (CAPG) as a requirement. "Greenspace" means a ground-level amenity space open to the general public that is covered with at least 80% pervious surface and 50% plants and trees.</p>	<p>The draft FBC is silent on this issue.</p>	<p>It is important to insure that there will be adequate public greenspace for the E-F district before development is approved.</p>

1. Rationale for incentives

"It comes down to this question: Does the community want something enough to provide an incentive that is sufficiently generous to be attractive to a developer? Or put differently, how much of an incentive is needed to make a developer want to do something he/she wouldn't otherwise do? A key variable is what is permitted under the base code. There has to be sufficient difference between what is allowable in the base code and what is allowed by incentive to make the incentive worth using."

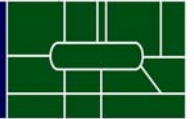
-Joel Russell, Executive Director, Form-Based Code Institute

Developer incentives in form-based code have proven effective at generating both energy efficiency and workforce housing in other municipalities. To ensure an adequate incentive for the creation of affordable housing and energy efficient buildings in Ephesus-Fordham, we have purposefully set the default building height maximums in our proposed FBC revisions to be low (i.e., two stories). Nonetheless, we believe this two-story height maximum represents a significant increase in allowable density beyond what is currently allowed in the Town's zoning. This significant increase is because the form-based code eliminates the current code provisions limiting floor-area-ratio and impervious cover. The maximum heights allowed in our proposed revisions to the code (five stories), represents an even more sizeable increase from the current density, and the proposed base density.

Therefore, we believe that if these revisions to the code are instituted, they will result in the creation primarily of 5-story construction with energy efficient design, and with the inclusion of affordable housing where applicable. We propose to cap the height maximum at five stories, so as to not counteract one of the other primary goals of the Plan, which is to create a vibrant, walkable environment. Also, by limiting density based on a five-story maximum height, it is more likely that greater areas of the EF district will be developed sooner (since demand for production of new square footage will be spread out over a greater footprint). This increased development footprint also supports the goal of creating a vibrant, walkable environment.

2. To create a vibrant, walkable environment the following urban design principles must be incorporated into any design plan and should therefore be incorporated into the code:

- Human scale (limitation of 3-5 story building heights);
- Human speed (limitation of car traffic speeds and volume);
- Interconnected pedestrian (and bicycle) pathways within and beyond the District that are independent of roads for cars;
- Public transit options (to increase accessibility and reduce automobile traffic);
- Natural areas (green space); Public open space (in addition to natural areas);
- Mixed use buildings containing a minimum of two uses (residential, office, retail/restaurant/entertainment) rather than isolated single use buildings;
- Continuous building facades with lots of activity (e.g. doors, windows, storefronts, sidewalk dining areas, projections, indentations, planting) rather than buildings separated by empty space or parking lots.



May 2, 2015

Mary Jane Nirdlinger – Planning Director
Town of Chapel Hill Planning
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

Re: Ephesus-Fordham Form Based Code – Proposed Staff Edits and Clarifications

Dear Mary Jane,

We are pleased to offer the following comments and recommendations and ask that they be considered in the scope of the proposed edits being considered by Planning Commission and Council. We have forwarded these to the Planning Commission at the suggestion of John Richardson after reviewing them together last week.

Where recommendations relate to specific items in the Staff Memo to the Planning Commission dated April 20, 2015 and the Ordinance Attachment-Proposed Text Amendment Language (OA-PTAL) the references are noted. Generally, we are supportive of all of the staff recommendations as presented in the Staff Memo as noted below and offer the following suggestions to help address specific challenges we have experienced when applying the Form Based Code to various projects.

3.11.2.1.C.1 Districts and Frontages (no references)

Recommendation 1: Consider language that would clarify that zoning boundaries follow final road alignments in situations where centerline adjustments are necessary to meet the public safety, health and welfare. **Supporting Argument:** Clarification is necessary to address adjustments to the zoning boundary due to shifts in final road alignments.

Recommendation 2: The Town Manager should have the ability to interpret minor adjustments in the zoning boundaries where they are arbitrarily set (i.e. follow no particular roadway alignment, physiographic attribute or conceptual land use plan). **Supporting Argument:** The Town Manager should have the authority to interpret the intent of the zoning boundary.

Recommendation 3: Where lands are rendered undevelopable due to shifts in zoning boundaries, consideration should be given to allow open space areas to satisfy the intent of the transition (i.e. WR-3 Districts). **Supporting Argument:** Clarification is necessary to address the impacts of shifts in final road alignments on previously developable lands.

3.11.2.1.D.4.a Districts and Frontages, Corner Lot Application of Frontages (OA-PTAL reference #10)

Recommendation 1: Consider including a clarification note stating the requirement for Type-A parallel parking is not required to wrap the corner to Type-B Frontages. **Supporting Argument:** This clarifies that angled parking can be developed beginning at the corner of the Type-B Frontage which adds viability to commercial shops and enhances the sidewalk experience (e.g. Village Plaza – Type B Frontage).

Recommendation 2: Consider language that would allow designated Type-A Frontages to be developed as Type B or C Frontages where streets intersecting with NCDOT Arterials (Fordham Blvd.) create a “protected stem” situation along the lesser street. In this situation on-street parking is often prohibited, limiting opportunities to create pedestrian-friendly sidewalk environments. **Supporting Argument:** By allowing Type-B or C Frontages we would encourage the development of commercial storefronts by allowing adjacent parking at these intersections resulting in more active streetscapes.

3.11.2.3. Walkable Residential (WR-3 and WR-7), Mass (OA-PTAL reference #20)

Recommendation 1: Add language to clarify that a step back is not required for a 3-story building. **Supporting Argument:** The FBC is currently interpreted this way but the current language is confusing.

Recommendation 2: Consider language that would allow 5-story buildings not be required to step-back provided a building-height to street corridor-width (i.e. building-to-building) relationship of 1:1 is not exceeded. **Supporting Argument:** A step-back requirement is extremely difficult for wood-framed construction which represents the only economically viable construction option for medium-density residential construction where affordability is an ever increasing concern. By maintaining a 1:1 relationship, concerns of the “cavern effect” created by taller buildings positioned closer to the street, are addressed.

3.11.2.4. Outdoor amenity space and recreation space are ratios of gross land area (OA-PTAL reference #22)

Recommendation 1: Assuming adoption of the *(3.11.4.7.C.4 Administration of Form Districts, Form District Permit, Action on the Application - Recommendation 1)* noted below, add language clarifying that open amenity space and recreations space are based on Net Land Area rather than Gross Land Area. **Supporting Argument:** This is the intent of the code and is consistent with its current interpretation since computations are computed without any proposed right-of-way dedication.

3.11.2.7.G.2.a Measurements and Exceptions, Setback Encroachments, Mechanical Equipment and Utility Lines (no references)

Recommendation 1: Consider language that would allow for transformers to be placed within the 0'-10' front setback. **Supporting Argument:** Transformers must be accessible by trucks in emergency situations and this invariably occurs along the street frontage. Transformers, unlike other service equipment, are generally very benign and unobtrusive. CDC and the developer alike will always strive to make them as unobtrusive as possible while balancing the desire to maximize building façade along the BTZ. Side streets and service alleys may not always be present to allow options.

Recommendation 2: Consider language that would allow screening if required, permit the use of perforated metal (min. 60% opacity). **Supporting Argument:** This is a very attractive material for

use in urban settings and meets the intent of the FBC. It also allows for better ventilation of HVAC equipment where this may be an appropriate screening method.

3.11.4.7.C.4 Administration of Form Districts, Form District Permit, Action on the Application (no references)

Recommendation 1: Consider language that allows the plat to be recorded after the approval of the Form Based Code Permit and Construction Drawings. A right-of-way dedication “exhibit” should be included in the FDP plans, to be later finalized with a recorded plat after approval of the FDP. **Supporting Argument:** The requirement to record the plat prior to issuance of the Form Based Code Permit invokes right-of-way dedications prematurely that are not based on final designs. Inaccurate dedications are extremely difficult to correct. Early platting also creates a situation where a developer is then required to make improvements within a public right-of-way triggering bonding, etc. rather than allowing improvements to be constructed preceding dedication, a normal construction sequence. The Town has ample means to force right-of-way dedications before CO’s are issued.

3.11.4.7.C.7 Administration of Form Districts, Action of the Application

Recommendation: We believe this would be better written if it were simply stated “...to allow the Town Manager, or their designee, to approve modifications to the FDP, without having to go back to CDC or Town Council as long as it was in substantial conformance as defined in subsection 3.11.4.8.B.” **Supporting Argument:** The proposed language is confusing.

3.11.4.7.D.4.a Administration of Form Districts, Certificate of Appropriateness, Action on the Application memo reference #13 (OA-PTAL reference #75)

Recommendation 1: Please do not increase review time which would amount to an additional 5 calendar months (20 weeks) for a review and approval. **Supporting Argument:** Increasing the review time dilutes the benefits of the FBC to streamline reviews and would likely become a self-fulfilling prophecy. It is highly unlikely that an applicant would not request an extension of time (a relatively simple process) if it is necessary to continue working with Staff and CDC to achieve approval vs. facing denial. Early applications in the E-F FBC district experienced extended reviews primarily due to inexperience with the new FBC on the part of all parties. We believe we should stay focused on the goal of the 73 combined working days currently allotted and only extend as needed.

We appreciate your consideration of these recommendations and hope that you will feel free to call with any questions. Thank you.

Best regards,



Scott T. Murray, RLA, LEED-AP BD+C

CC: Town of Chapel Hill – Planning Commission