



TOWN OF CHAPEL HILL NORTH CAROLINA

MEMORANDUM

TO: Planning Commission

FROM: Mary Jane Nirdlinger, Planning & Sustainability
Gene Poveromo, Development Manager
Eric Feld, Community Sustainability Planner II

SUBJECT: Land Use Management Ordinance Text Amendment – Definition and Regulation of Independent Senior Living Facility

Recommended Action

- That the Planning Commission consider the proposed text amendment to the Land Use Management Ordinance (LUMO) and recommends that the Town Council enact the proposed Ordinance A attached to this memorandum.

Explanation of Recommendation

- The Land Use Management Ordinance requires the Planning Commission to forward a recommendation to the Council on proposed text amendments.

Context with Key Issues

- The proposed amendment would offer a definition for the terms “independent senior living facility” and add the use as an allowed land use in Chapel Hill.
- The LUMO does not currently define and/or regulate “independent senior living facility” as an allowed land use in Chapel Hill. The following is a summary of the proposed changes:
 - LUMO Definitions – amendment defines “Independent Senior Living Facility”;
 - LUMO Table 3.7.1 – amendment identifies zones where the “Independent Senior Living Facility” is an allowable land use; and
 - LUMO Subsection 6.2.1 – amendment describes special regulations for the “Independent Senior Living Facility” land use.

Background

- The Town received an application from Hawthorn Development, LLC proposing an amendment to the LUMO. Additionally, the applicant presented a Concept Plan to the Town Council at the April 20, 2015 Business Meeting and the May 4, 2015 Work Session.
- We are anticipating the submittal of a Special Use Permit application for development of the Chapel Hill Retirement Residence. This application is dependent upon the Council

approving the proposed text amendment, creating an “independent senior living facility” land use.

Fiscal Note

- No fiscal impact is determined at this time.

Council Goal:

- Create a Place for Everyone
- Support Community Prosperity and Engagement
- Facilitate Getting Around
- Develop Good Places, New Spaces

Attachments

- Draft public hearing memorandum
- Ordinance to Enact Text Amendment (Ordinance A)

MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: Mary Jane Nirdlinger, Planning & Sustainability
Gene Poveromo, Development Manager
Eric Feld, Community Sustainability Planner II

SUBJECT: Public Hearing: Land Use Management Ordinance Text Amendment – Definition and Regulations of Independent Senior Living Facility

DATE: September 21, 2015

PURPOSE

Tonight, the Town Council will consider a text amendment to the Land Use Management Ordinance (LUMO) intended to define and regulate “Independent Senior Living Facility” as an allowed land use.

INTRODUCTION

Because the LUMO does not currently define and/or regulate senior living facilities, it will be necessary to amend the LUMO prior to approving a Special Use Permit application proposing such a use.

TEXT AMENDMENT SUMMARY

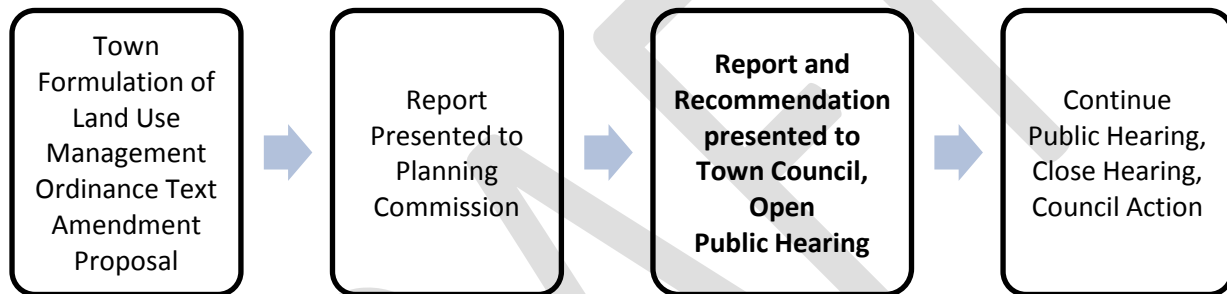
Three changes to the LUMO are proposed for the Council’s consideration to define and regulate the independent senior living facility land use as follows:

- 1) *Definition:* The proposed ordinance would define the independent senior living facility land use as a facility under single ownership and/or management for persons at least 55 and older and their respective spouse/domestic partner. Additionally, the definition describes services provided by the facility.
- 2) *Zoning Districts:* The applicant’s proposal would allow the Town to permit the independent senior living facility land use in every general use and planned development zoning district as a permitted or accessory use, except for the following: Industrial (I), Materials Handling (MH), Planned Development – Shopping Center Neighborhood (PD-SC(N)), and Planned Development – Industrial (PD(I)). This standard is identical to the standards that apply to group care facilities (i.e. convalescent and nursing homes).

- 3) *Special Regulations*: The LUMO describes special regulations in Article 6 for some land uses that have special impacts or special needs that cannot be addressed by the normal use and dimensional restrictions of the zoning districts. The proposed ordinance, if enacted, would require that any independent senior living facility land use have access onto an arterial or collector street when located in a residential zoning district.

PROCESS

The request to define and regulate “independent senior living facility” as a permitted use is being proposed as a Land Use Management Ordinance text amendment. The Land Use Management Ordinance requires the Town Manager to: 1) conduct an evaluation of the proposed text amendment; 2) present a report to the Planning Commission; 3) hold a public hearing; and 4) present a report and recommendation to the Town Council.



ANALYSIS OF THE PROPOSAL

[Article 4.4 of the Land Use Management Ordinance](#)¹ (Appendix A of the Town Code) establishes the intent of Zoning Amendments (including both atlas and text amendments to the Ordinance) by stating that:

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

- a. to correct a manifest error in the chapter; or
- b. because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- c. to achieve the purposes of the Comprehensive Plan.

Article 4.4 further indicates:

1

https://www.municode.com/library/nc/chapel_hill/codes/code_of_ordinances?nodeId=CO_APXALOUSMA_ART4_PR_4.4ZOAM

It is further intended that, if amended, this chapter be amended only as reasonably necessary to the promotion of the public health, safety, or general welfare, and in conformance with the Comprehensive Plan.

Following is a staff response to the three required considerations:

A) To correct a manifest error in the appendix:

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

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

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

B) Because of changed or changing conditions in a particular area or in the jurisdiction generally:

Staff Comment: We believe the information in the record thus far can be summarized as follows:

Argument in Support: “Chapel Hill Land Use Management Ordinance currently addresses very limited senior housing needs. As a result of the growing senior housing demand, senior housing providers have expanded their services with many options to meet the needs and interests of our growing senior population. Limiting the land use definitions to only Adult Day Care Facility and Group Care Facility (or Assisted Living and Nursing Home) no longer meets senior housing needs. Senior housing demands, at all levels, will continue to increase and the Adult Day Care Facility and Group Care Facility housing option will continue to be a part of the senior housing mix that is meeting the growing demands for senior housing in Chapel Hill, North Carolina, and throughout the nation.” – Excerpt from the applicant’s statement of justification

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

C) To achieve the purposes of the Comprehensive Plan.

Staff Comment: We believe the information in the record thus far can be summarized as follows:

Argument in Support: We believe that the proposed text amendment can be justified to achieve the purposes of the goals and objectives from the Comprehensive Plan.

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

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

Relevant goals and objectives in the Comprehensive Plan include, but are not limited to:

A Place for Everyone

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

Community Prosperity and Engagement

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

Getting Around

- Incorporate street planning into zoning code (GA.7)

Good Places, New Spaces

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

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

RECOMMENDATIONS

Planning Commission Recommendation: We will provide the Council with the Commission's recommendation once it becomes available.

Preliminary Staff Recommendation: On balance, we believe the Council could make the finding that the proposed text amendment is in compliance with the Comprehensive Plan. Our preliminary recommendation is that the Council:

- (1) Open the public hearing to begin receiving public comments on the applicant's proposed Land Use Management Ordinance text amendment;
- (2) Receive the staff's introductory report and presentation on the proposed text amendment;
and
- (3) Continue the public hearing to the Council Business Meeting on October 26, 2015.

ORDINANCE A

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE TO DEFINE AND REGULATE INDEPENDENT SENIOR LIVING FACILITY AS A PERMITTED USE (2015-X-X/O-)

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) to allow “Independent Senior Living Facility” as a permitted use and finds that the amendment would promote diversification of the Town’s economy and employment opportunities and would support the incubation and growth of entrepreneurial/start-up businesses, consistent with the principles of the Town’s Comprehensive plan,

NOW, THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill as follows:

Section 1 – Appendix A – Definitions section of the Chapel Hill Land Use Management Ordinance is hereby amended to add the following:

“Independent Senior Living Facility: A facility in which the residents are limited in occupancy to persons at least 55 years or older, their spouse/domestic partner and/or their surviving spouse/domestic partner, except for rooms occupied by resident staff personnel performing duties directly related to the operation of the facility. The facility shall consist of a single building or a group of buildings with one ownership and management. The facility shall maintain a common dining room and typically provides personal services, such as transportation, banking, and/or a barber shop/hair salon; recreational activities and amenities; concierge services; and housekeeping for residents and their guests. Health maintenance services and/or treatment are not provided by the facility.”

Section 2 – Table 3.7.1 - Table of Permitted Uses section of the Chapel Hill Land Use Management Ordinance is hereby amended to add the following:

“Table 3.7-1: Use Matrix

USES	General Use Zoning District														Planned Development (PD-)													
	R-ID5	RT	R-LD1	R-1A	R-1	R-2	R-2A	R-3	R-4	R-5	R-6	R-SS-C	TC-1_TC-2_TC-3	CC	NC	OL-1	OL-2	OL-3	OL-4	I	MH	H	SC(N)	SCI	OI	MU	T	
<i>Independent Senior Living Facility (See also Article 6)</i>	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	P, A	-	-	P, A	-	P, A	P, A	P, A	-	-

Section 3 – A new use added to Article 6 – Special Regulations for Particular Uses and shall read as follows:

“6.21 Independent Senior Living Facility

The zoning lot on which an independent senior living/congregate care facility is located shall have access onto an arterial or collector street in any residential zoning district.

Section 4. This ordinance shall be effective upon enactment.

This the _____ day of _____, 2015.